

Exhibit 17



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Transcript of Pia Ellis

Date: December 18, 2023

Case: International Paper Company -v- Beazley Insurance Company, Inc., et al.

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1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE WESTERN DISTRICT OF TENNESSEE
3 WESTERN DIVISION

4 - - - - - x
5 INTERNATIONAL PAPER :
6 COMPANY, :
7 Plaintiff, :
8 v. : Civil Action No.
9 BEAZLEY INSURANCE : 22-02789-TLP-CGC
10 COMPANY, INC., and :
11 ZURICH AMERICAN :
12 INSURANCE COMPANY, :
13 Defendants. :
14 - - - - - x

15
16 Videotaped Deposition of PIA ELLIS

17 Conducted Virtually

18 Monday, December 18, 2023

19 10:07 a.m. EST

20
21 Job No.: 518471

22
23 Pages: 1 - 188

24 Reported By: Karen Klerekoper, CSR-4250, RPR

25

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1
2 Videotaped Deposition of PIA ELLIS, conducted
3 virtually:
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9 Pursuant to Notice, before Karen Klerekoper,
10 Notary Public in and for the State of Michigan.
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1 A P P E A R A N C E S
2

3 ON BEHALF OF THE PLAINTIFF:

4 JOHN SYLVESTER, ESQUIRE

5 NATHAN TOWNSEND, ESQUIRE

6 LAURA VEITH, ESQUIRE

7 K&L GATES LLP

8 210 Sixth Avenue

9 Pittsburgh, Pennsylvania 15222

10

11 ON BEHALF OF THE DEFENDANTS:

12 EUGENE MURPHY, ESQUIRE

13 WILLIAM MAXWELL DALEY, ESQUIRE (Providence office)

14 ROBINSON & COLE LLP

15 777 Brickell Avenue, Suite 680

16 Miami, Florida 33131

17

18 ALSO PRESENT:

19 VIDEOGRAPHER CHARLOTTE FORREST, PLANET DEPOS

20 A/V TECHNICIAN HAROLD RODRIGUEZ, PLANET DEPOS

21 MARY JANE PALMER, IP

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1 P R O C E E D I N G S

2 THE VIDEOGRAPHER: Here begins Media 10:06:49
3 Number 1 in the videotaped deposition of Pia Ellis 10:06:50
4 in the matter of International Paper Company V. 10:06:53
5 Beazley Insurance Company, et al., in the United 10:06:59
6 States District Court for the Western District of
7 Tennessee, Western Division, Case Number 10:07:05
8 22-02789-TLP-CGC. Today's date is December 18th, 10:07:14
9 2023. The time on the video monitor is 10:07:16
10 10:07 a.m., Eastern Standard Time. 10:07:21
11 The remote videographer today is Charlotte 10:07:23
12 Forrest, representing Planet Depos. All parties 10:07:27
13 of this video deposition are attending remotely. 10:07:29
14 Would counsel please voice-identify 10:07:31
15 themselves and state whom they represent. 10:07:33
16 MR. SYLVESTER: John Sylvester of the law 10:07:36
17 firm K&L Gates, representing the plaintiff, 10:07:38
18 International Paper Company. And my colleagues, 10:07:41
19 Nathan Townsend and Laura Veith, will be on from 10:07:43
20 time to time. And also, our client from 10:07:47
21 International Paper, Mary Jane Palmer, will also 10:07:49
22 be on from time to time. 10:07:53
23 MR. MURPHY: Gene Murphy with Robinson 10:07:55
24 Cole on behalf of defendant, Beazley Insurance 10:08:00
25 Company. And I'm also joined by my colleague, 10:08:01

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1	William Daley.	10:08:04
2	THE VIDEOGRAPHER: The court reporter	10:08:06
3	today is Karen Klerekoper, representing Planet	10:08:07
4	Depos.	10:08:09
5	The witness will now be sworn.	10:08:09
6	(Oath stipulation read and agreed by counsel	10:08:12
7	and witness.)	10:08:12
8	PIA ELLIS, having been duly sworn testified as	
9	follows:	10:09:07
10	EXAMINATION	10:09:07
11	BY MR. SYLVESTER:	10:09:07
12	Q Good morning, Ms. Ellis. My name is John	10:09:07
13	Sylvester, as I've stated on the record. I am	10:09:15
14	counsel for the plaintiff, International Paper	10:09:17
15	Company, in this lawsuit against Beazley Insurance	10:09:20
16	Company arising out of an employee-theft claim	10:09:23
17	that International Paper has made to Beazley	10:09:26
18	Insurance Company.	10:09:33
19	Do you understand that you are here	10:09:34
20	appearing both as a corporate representative	10:09:36
21	witness for Beazley Insurance Company and also in	10:09:38
22	your individual capacity?	10:09:40
23	A Yes.	10:09:42
24	Q Okay. And before we begin the substantive	10:09:44
25	questioning, let me ask you to formally state on	10:09:48

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1	the record your name and your residence address?	10:09:50
2	A My full name is Pia, P-I-A, last name	10:09:54
3	Ellis, E-L-L-I-S.	10:09:59
4	Q And your residence address?	10:10:03
5	A 45 Rockefeller Plaza, 16th Floor, 10010.	10:10:05
6	Q What city is that?	10:10:16
7	A New York, New York.	10:10:18
8	Q That's your residence address?	10:10:20
9	A That's the Beazley corporate office	10:10:22
10	address.	10:10:26
11	Q Oh, okay. And where do you live?	10:10:26
12	A I live in White Plains, New York.	10:10:30
13	Q And who is your employer?	10:10:34
14	A Beazley Insurance Company.	10:10:40
15	Q What is your title or position with	10:10:42
16	Beazley?	10:10:44
17	A Claims manager.	10:10:46
18	MR. MURPHY: John, can I interrupt for one	10:10:49
19	second, I apologize. Just the initial	10:10:52
20	identification about this being both a corporate	10:10:53
21	rep deposition and Pia Ellis testifying in her	10:10:59
22	individual capacity, I know we have both those	10:11:03
23	notices, but I think I need some kind of	10:11:05
24	understanding as to, you know, which capacity	10:11:07
25	she's testifying on. I think, unless otherwise	10:11:11

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1 stated, this a corporate rep deposition. And if 10:11:14
2 we think something is going beyond the scope of 10:11:18
3 notice, I'll certainly let you know. Is that 10:11:21
4 acceptable? 10:11:24

5 MR. SYLVESTER: Yes, I was going to get 10:11:26
6 into that in a minute, Gene -- 10:11:28

7 MR. MURPHY: Okay.

8 MR. SYLVESTER: -- to the extent anything 10:11:30
9 is beyond the scope of the notice of corporate 10:11:31
10 designee testimony that she would be testifying in 10:11:33
11 her individual capacity. 10:11:37

12 Q Let me ask you, Ms. Ellis, are you 10:11:40
13 represented by counsel here today? 10:11:43

14 A Yes. 10:11:44

15 Q Can you identify your counsel for the 10:11:47
16 record? 10:11:50

17 A Robinson Cole. 10:11:50

18 Q Okay. Have you given a deposition before, 10:11:52
19 Ms. Ellis? 10:11:56

20 A Not on this matter. 10:12:03

21 Q In any matter, have you ever given a 10:12:05
22 deposition? 10:12:07

23 A No. 10:12:09

24 Q Okay. Well, let me just go over a couple 10:12:09
25 ground rules. I'm sure your counsel probably has 10:12:15

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1 already mentioned them to you. 10:12:18

2 We're here to get information from you 10:12:20

3 that may be helpful to the resolution of this 10:12:22

4 case. I will ask you questions and ask that you 10:12:24

5 wait until I finish my question before you give 10:12:28

6 your answer. And similarly, I'll wait until you 10:12:30

7 finish your answer before I ask the next question. 10:12:35

8 That way we won't talk over each other and allow 10:12:38

9 the court reporter to have a clean record. 10:12:42

10 Do you understand that? 10:12:43

11 A Yes. 10:12:44

12 Q If I ask you a question that you don't 10:12:45

13 understand or that you think requires 10:12:48

14 clarification, will you let me know that so that I 10:12:51

15 can rephrase it or clarify in a way that you can 10:12:53

16 give your best answer? 10:12:57

17 A Yes. 10:12:58

18 Q We'll be taking breaks from time to time 10:12:58

19 in the course of this deposition. If you ever 10:13:03

20 need a break, other than when a question is 10:13:06

21 pending, we can take a break to accommodate you. 10:13:09

22 You just have to let me know that. Do you 10:13:12

23 understand that? 10:13:15

24 A Yes, I do. 10:13:15

25 Q And because we're in a remote deposition, 10:13:16

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1 we're not all sitting in the same conference room 10:13:19
2 as otherwise might be the case, I need to first 10:13:22
3 ask you, is there anybody else sitting in the room 10:13:26
4 where you are sitting? 10:13:31

5 A No. 10:13:32

6 Q And do you understand that while the 10:13:32
7 question-and-answer session is going you are not 10:13:34
8 permitted to communicate with anybody else, either 10:13:37
9 electronically or otherwise? 10:13:40

10 Do you understand that? 10:13:43

11 A Yes. 10:13:44

12 Q Did you bring any notes or any documents 10:13:45
13 that you have for your reference to this 10:13:50
14 deposition? 10:13:53

15 A I have the deposition notice. 10:13:56

16 Q Okay. And just so that we see what we're 10:13:59
17 talking about here, can you take a look at 10:14:03
18 Exhibit 1, which is the revised Rule 30(b)(6) 10:14:05
19 notice of deposition of Beazley. Is that the 10:14:10
20 notice of deposition that you're referring to? 10:14:12

21 (Marked for identification Exhibit 1, 10:14:14
22 revised Rule 30(b)(6) notice of deposition of 10:14:07
23 Beazley.) 10:14:10

24 A Yes, it is. 10:14:16

25 Q Okay. And while we're looking at that, 10:14:17

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1	I'll ask the tech to put up Exhibit 2, as well,	10:14:19
2	which is an individual notice.	10:14:22
3	(Marked for identification Exhibit 2,	10:14:24
4	individual Notice.)	10:14:23
5	Q But with regard to Exhibit 1, you've seen	10:14:25
6	this Notice before, I take it?	10:14:27
7	A Yes.	10:14:29
8	Q You understand that there are 25 subject	10:14:30
9	matters for which International Paper has asked	10:14:36
10	Beazley to provide a corporate witness to testify	10:14:40
11	about the corporate information regarding those 25	10:14:43
12	topics?	10:14:50
13	A Yes.	10:14:53
14	Q Do you understand that you have been	10:14:54
15	designated as the witness to address each of those	10:14:56
16	25 topics?	10:14:59
17	A Yes.	10:15:02
18	Q Are you prepared to testify with respect	10:15:03
19	to each of those 25 topics?	10:15:05
20	A Yes.	10:15:09
21	Q Okay. And take a look at Exhibit 2, which	10:15:10
22	is notice of individual deposition of your name,	10:15:17
23	Pia Ellis, where we asked that you be provided to	10:15:25
24	testify also as an individual in this case.	10:15:28
25	Have you seen that notice of deposition?	10:15:31

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1	A Sorry, I'm just opening up the other	10:15:38
2	exhibit.	10:15:43
3	Q Sure. Take your time.	10:15:43
4	A Yes, I have.	10:15:59
5	Q You understand that I may ask you	10:16:00
6	questions that are within your knowledge, but they	10:16:03
7	may be outside the scope of the 25 topics, in	10:16:07
8	which case you'll be testifying in your individual	10:16:10
9	capacity and not as a binding corporate	10:16:13
10	representative of Beazley?	10:16:16
11	A Yes.	10:16:22
12	Q Okay. Now, what did you do to prepare for	10:16:23
13	today's deposition?	10:16:28
14	A I reviewed the file notes and also the	10:16:32
15	topics listed within the deposition notice.	10:16:37
16	Q Okay. What other documents other than the	10:16:43
17	file notes and the deposition notice did you look	10:16:45
18	at?	10:16:49
19	A Also the original complaint and answer.	10:16:49
20	Q Okay. Did you review any interrogatory	10:16:54
21	answers that Beazley propounded in response to	10:16:59
22	interrogatories by International Paper?	10:17:03
23	A Yes.	10:17:06
24	Q And you have verified some interrogatory	10:17:07
25	answers; do you recall that?	10:17:12

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1	A Yes.	10:17:15
2	Q Did you review any transcripts of any	10:17:16
3	deposition testimony that's been taken in this	10:17:21
4	case?	10:17:23
5	A No.	10:17:26
6	Q Did you review the transcript of the	10:17:27
7	examination under oath of Doug Dowdell that	10:17:30
8	International Paper provided to Beazley prior to	10:17:36
9	the litigation?	10:17:38
10	A No.	10:17:42
11	Q Are you aware otherwise of the contents of	10:17:43
12	the examination under oath that Mr. Dowdell gave	10:17:49
13	in this case?	10:17:55
14	A Yes.	10:17:59
15	Q How did you become aware of the substance	10:18:00
16	of his testimony in that examination under oath?	10:18:03
17	A I observed portions of it.	10:18:08
18	Q It was a two-day deposition. Did you	10:18:14
19	observe both days or just one day of that	10:18:18
20	examination under oath? They were separated by	10:18:22
21	several months, as I recall.	10:18:28
22	A I believe I only observed part of the	10:18:29
23	first day.	10:18:34
24	Q Do you know about what was discussed in	10:18:34
25	the second day of his examination under oath under	10:18:39

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1	the questioning of Mr. Keeley?	10:18:42
2	A I don't recall the specifics of the second	10:18:48
3	day.	10:18:51
4	Q You mentioned that you had not reviewed	10:18:51
5	the transcripts of any depositions in this case.	10:18:56
6	Have you come to learn of the substance of the	10:18:58
7	testimony of the number of witnesses who have	10:19:01
8	testified in this case by some other means other	10:19:03
9	than reading the transcript?	10:19:06
10	A Could you repeat question?	10:19:14
11	Q Sure. I think you said earlier that you	10:19:16
12	had not read the transcripts of the depositions of	10:19:18
13	a number of witnesses who have testified in this	10:19:21
14	case. My question is, did you come to learn of	10:19:24
15	substance of the testimony of those witnesses	10:19:27
16	through some other means, other than reading the	10:19:30
17	transcript?	10:19:32
18	A Yes.	10:19:37
19	Q And what other means did you come to learn	10:19:47
20	about the substance of other depositions in the	10:19:50
21	case?	10:19:53
22	MR. MURPHY: The witness is instructed not	10:19:55
23	to disclose any attorney-client communications,	10:19:56
24	but other than that, she's free to answer.	10:20:00
25	Q Do you understand the question, Ms. Ellis?	10:20:25

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1 A Yes, but it would have been through 10:20:28
2 attorney-client information. 10:20:31

3 Q Okay. So without revealing any of the 10:20:34
4 substance of your attorney-client communications 10:20:42
5 can you confirm that you have received reports 10:20:44
6 from counsel about the substance of the testimony 10:20:46
7 of the witnesses in this case who have given 10:20:49
8 deposition testimony? 10:20:52

9 MR. MURPHY: Objection as to form. 10:20:53

10 You can answer. 10:20:55

11 A Yes. 10:20:58

12 Q Okay. Any other documents that you've 10:20:59
13 reviewed? Did you review any emails or any other 10:21:03
14 documents, other than the ones that you've listed 10:21:06
15 in the complaint, the answer, interrogatory 10:21:09
16 answers, the notice of deposition? 10:21:12

17 A Those were the items that I reviewed. 10:21:14

18 Q And how long did you spend preparing for 10:21:17
19 this deposition, approximately, in hours? 10:21:24

20 A Approximately, six to seven hours. 10:21:26

21 Q Okay. Did you speak to anybody other than 10:21:36
22 your counsel in preparation for your deposition? 10:21:40

23 A No. 10:21:46

24 Q How long have you been the claims 10:21:47
25 professional for Beazley responsible for this 10:21:56

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1 matter? 10:21:58
2 A Since -- at varying times since July of 10:22:00
3 2020. 10:22:12
4 Q Okay. And who was responsible as the 10:22:13
5 claims professional for this matter prior to your 10:22:19
6 taking over in July of 2020? 10:22:21
7 A Antonio Trotta. 10:22:25
8 Q Antonio. Go ahead. 10:22:29
9 A Trotta. 10:22:32
10 Q Okay. And when was Antonio Trotta 10:22:36
11 responsible for the claim, to your knowledge? 10:22:40
12 A Well, it was prior to my coming on board 10:22:49
13 with Beazley. 10:22:52
14 Q So you came on board with Beazley in July 10:22:55
15 of 2020, correct? 10:22:59
16 A Correct. 10:23:10
17 Q And was this claim immediately given to 10:23:01
18 you as one of your new claims to handle when you 10:23:04
19 came on with Beazley in July of 2020? 10:23:07
20 A It was part of a bulk file transfer. 10:23:10
21 Q In the course of that bulk file transfer, 10:23:13
22 did you have discussions with Antonio Trotta who 10:23:18
23 preceded you with regard to any details about this 10:23:23
24 claim? 10:23:26
25 A Well, I reviewed the file notes at that 10:23:28

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1	time.	10:23:31
2	Q Right. But did you talk the claims	10:23:31
3	handler, Antonio Trotta, who had responsibility	10:23:35
4	prior to your taking over in July of 2020.	10:23:38
5	A I don't recall specifically.	10:23:41
6	Q If the files notes reflect involvement of	10:23:47
7	an Angela Lee, do you know Angela Lee?	10:23:51
8	A Well, she -- I don't know her -- I don't	10:23:54
9	know her, but she was the initial handler at the	10:23:57
10	time of the loss notice.	10:24:01
11	Q Okay. And so, the loss notice, let's say,	10:24:03
12	was in December of 2019. How long did Angela Lee	10:24:09
13	have responsibility for the loss notice from	10:24:12
14	International Paper?	10:24:15
15	A I -- I don't know specifically how long	10:24:19
16	she handled the file.	10:24:23
17	Q And then was it transferred from her to	10:24:24
18	Antonio Trotta?	10:24:30
19	A Yes.	10:24:32
20	Q Okay. And that was before you joined the	10:24:32
21	company in July of 2020. Now, you mentioned that	10:24:34
22	you've had responsibility at various times since	10:24:38
23	July of 2020, what did you mean by "at various	10:24:43
24	times"? Did that responsibility not be constant	10:24:47
25	from July of 2020 until today?	10:24:51

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1 A When the proof of loss was submitted, the 10:24:58
2 file was reassigned to Antonio Trotta. And then 10:25:00
3 when he left Beazley, I took over the direct 10:25:09
4 handling again of the file. 10:25:12

5 Q So the proof of loss, let's say it was 10:25:16
6 submitted in December of 2020, you said the file 10:25:18
7 was then handed back to Antonio Trotta? 10:25:23

8 A Correct. 10:25:29

9 Q And for how long did he have before it 10:25:30
10 came back to you? 10:25:32

11 A He left Beazley in roughly June or July of 10:25:33
12 the following year. So at that point, the file 10:25:41
13 was reassigned to me, back to me. 10:25:44

14 Q Okay. And have you had frontline claims 10:25:48
15 handling responsibility on the file from June or 10:25:53
16 July of 2021 until today? 10:25:57

17 A I've been the claims manager on the file 10:26:00
18 since then. 10:26:03

19 Q Okay. And when you say you've been the 10:26:03
20 claims manager, who did you report to with regard 10:26:09
21 to this claim? 10:26:12

22 A My manager is William Clark. 10:26:14

23 Q William Clark, is that what you said? 10:26:24

24 A Yes, yes. 10:26:26

25 Q And what is his title? 10:26:27

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1 A He's the executive risk claims team 10:26:30
2 leader. 10:26:36
3 Q And where is he located? 10:26:39
4 A New York. 10:26:42
5 Q Same office as you in Rockefeller Center? 10:26:43
6 A Yes. 10:26:51
7 Q You understand that this is a claim for 10:26:51
8 the \$15 million limits of the Beazley policy that 10:26:57
9 International Paper has submitted to Beazley under 10:27:02
10 its commercial crime coverage for an 10:27:05
11 employee-theft claim, do you not? 10:27:08
12 A Yes, I understand the -- the alleged 10:27:13
13 claim. 10:27:17
14 Q Okay. Do you have any authority to accept 10:27:17
15 or deny that claim? 10:27:22
16 MR. MURPHY: Are we talking to her in her 10:27:29
17 individual capacity now? 10:27:31
18 MR. SYLVESTER: Sure. 10:27:33
19 Q Do you, as claims manager for this claim, 10:27:36
20 have the authority to accept or deny this claim? 10:27:38
21 A No. 10:27:42
22 Q Who does? 10:27:43
23 A The decisions are made within the 10:27:49
24 reporting structure of the claims department. 10:27:51
25 Q And for a claim of this size who would 10:27:58

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1 have authority to accept or deny the claim that 10:28:01
2 International Paper has submitted that's at issue 10:28:05
3 in this litigation? 10:28:07
4 A Beth Diamond. 10:28:11
5 Q Did you say Beth Diamond? 10:28:14
6 A Yes. 10:28:16
7 Q What is Beth Diamond's position? 10:28:17
8 A Head of claims for Beazley Insurance 10:28:22
9 Company. 10:28:29
10 Q Where is Beth Diamond located? 10:28:29
11 A In the same office in New York. 10:28:33
12 Q Does William Clark report to Beth Diamond? 10:28:37
13 A No. 10:28:43
14 Q Who does William Clark report to? 10:28:44
15 A Steve Chang. 10:28:48
16 Q What is Steve Chang's position? 10:28:52
17 A The head of third party claims. 10:28:56
18 Q And who does Steve Chang report to? 10:28:59
19 A Beth Diamond. 10:29:03
20 Q Has Beazley made a determination as to 10:29:05
21 whether to accept or deny the claim that gives 10:29:19
22 rise to this litigation, that is International 10:29:21
23 Paper's employee-theft claim? 10:29:24
24 A At this time, Beazley does not have enough 10:29:26
25 information to confirm a loss under the policy. 10:29:31

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1 Q So, at this point in the litigation, are 10:29:41
2 you saying that Beazley is not denying the claim? 10:29:45

3 A I'm saying that we don't have enough 10:29:50
4 documentation or information from the insured to 10:29:53
5 make a determination with respect to coverage. 10:29:57

6 Q This is a claim that International Paper 10:30:02
7 gave notice to about four years ago; is that 10:30:06
8 correct? 10:30:15

9 A Approximately, yes. 10:30:15

10 Q This is a claim for which IP provided a 10:30:19
11 proof of loss about three years ago, right, 10:30:27
12 December of 2020? 10:30:31

13 A Of 2020. 10:30:31

14 Q Okay. This is a claim for which 10:30:34
15 International Paper has provided hundreds of 10:30:39
16 thousands of pages of documents to Beazley, both 10:30:42
17 prior to litigation and during the course of 10:30:47
18 litigation; isn't that right? 10:30:48

19 A The insured has provided a large volume of 10:30:54
20 documents. 10:30:57

21 Q The insured, International Paper, has also 10:31:00
22 submitted a number of its witnesses for 10:31:04
23 examination under oath prior to litigation, and 10:31:08
24 also depositions in the litigation, correct? 10:31:10

25 A Yes. 10:31:16

Transcript of Pia Ellis
Conducted on December 18, 2023

22

1 Q We're nearing the close of discovery in 10:31:20
2 this case with a trial set in April of next year. 10:31:23
3 So is it Beazley's contention, as we sit here 10:31:28
4 today on December 18th, 2023, that it has not made 10:31:32
5 a decision yet, notwithstanding the four years of 10:31:35
6 information exchange that has preceded it, that it 10:31:41
7 has not made a decision whether or not to cover 10:31:45
8 the claim? 10:31:48

9 MR. MURPHY: Objection as to form. 10:31:49

10 You can answer. 10:31:51

11 A At this -- at this time, Beazley does not 10:31:54
12 have sufficient documentation to demonstrate 10:31:57
13 employee dishonesty under the policy. 10:32:02

14 Q What more information does Beazley need to 10:32:04
15 make that decision? 10:32:09

16 A Well, again, based on what we've received 10:32:14
17 to date we have not been able to make that 10:32:18
18 determination of an employee dishonesty under the 10:32:21
19 policy. 10:32:24

20 Q Why not? 10:32:25

21 A Well, as I said, we don't have the 10:32:33
22 information to demonstrate an employee dishonesty 10:32:43
23 under the policy. 10:32:47

24 Q I understand that, but what additional 10:32:51
25 information would you need to make that 10:32:53

Transcript of Pia Ellis
Conducted on December 18, 2023

23

1 determination? 10:32:56

2 MR. MURPHY: Objection -- 10:32:59

3 Q What information do you not have that you 10:33:00

4 would need in order to make that determination? 10:33:02

5 MR. MURPHY: Objection as to form. 10:33:05

6 You can answer. 10:33:06

7 A Well, there are still items that are still 10:33:08

8 open in the discovery process right now. 10:33:11

9 Q Like what? 10:33:17

10 A Well, we haven't received full responses 10:33:19

11 to them. 10:33:45

12 Q What are they specifically that you're 10:33:46

13 waiting for in the form of responses to make a 10:33:49

14 decision as to whether or not to cover the claim? 10:33:52

15 A Documentation that demonstrates an 10:33:57

16 employee dishonesty. 10:34:05

17 Q What kind of documentation would satisfy 10:34:06

18 you that would document employee dishonesty over 10:34:09

19 and before the hundreds of thousands of pages that 10:34:12

20 IP has already produced to Beazley in response to 10:34:17

21 Beazley's request? 10:34:18

22 A Well, it's not the quantity of -- of 10:34:18

23 documents. It's what do they actually demonstrate 10:34:20

24 with respect to an employee dishonesty. 10:34:23

25 Q Do you believe there has been employee 10:34:26

Transcript of Pia Ellis
Conducted on December 18, 2023

24

1	dishonesty by Sitaraman Jagannath, who is referred	10:34:29
2	to as Jag in this litigation?	10:34:35
3	Do you believe that he has engaged in	10:34:37
4	employee dishonesty?	10:34:40
5	MR. MURPHY: Objection as to form.	10:34:41
6	You can answer.	10:34:42
7	A At this time, Beazley does not have enough	10:34:46
8	information to demonstrate employee dishonesty	10:34:49
9	with respect to the policy.	10:34:54
10	Q Do you understand the nature of the claim	10:34:56
11	that IP has made in this case, that is that its	10:34:59
12	purchasing agent for Specialty Chemicals in the	10:35:03
13	Global Sourcing department, a man who's referred	10:35:07
14	to as Jag, was awarding contracts to two companies	10:35:11
15	that were controlled by his half-brother, Shiv	10:35:18
16	Kumar, and that monies in the millions of dollars	10:35:21
17	were sent through those contracts to DGS and	10:35:26
18	Mid-South and that some of that money coming back	10:35:30
19	was funneled to accounts controlled by Jag?	10:35:32
20	Do you understand that's the nature of the	10:35:36
21	claim that International Paper has made to Beazley	10:35:38
22	for coverage?	10:35:43
23	MR. MURPHY: Objection as to form.	10:35:47
24	You can answer.	10:35:48
25	A We understand that that's what's been	10:35:50

Transcript of Pia Ellis
Conducted on December 18, 2023

25

1	alleged.	10:35:55
2	Q What part of that allegation does Beazley	10:35:56
3	not believe has been established?	10:36:00
4	A That there has been an employee dishonesty	10:36:06
5	under the policy.	10:36:10
6	Q What reason do you have to doubt the fact	10:36:12
7	that when Jag awarded contracts to his brother's	10:36:15
8	companies, without getting any waiver of conflict	10:36:21
9	of interest, and that monies being paid to DGS and	10:36:26
10	Mid-South were funneled back to Jag's control,	10:36:31
11	what part of that do you think does not establish	10:36:36
12	that Jag was engaged in employee dishonesty?	10:36:39
13	MR. MURPHY: Objection as to form.	10:36:43
14	You can answer.	10:36:44
15	A Again, at this time, Beazley does not have	10:36:46
16	enough information to determine that there was an	10:36:52
17	employee dishonesty under the policy.	10:36:54
18	Q Who made that determination that the	10:36:57
19	information is insufficient at this point?	10:36:59
20	A Within our claims reporting structure.	10:37:06
21	Q Is that somebody other than you?	10:37:13
22	A Yes.	10:37:18
23	Q And who is that?	10:37:19
24	A Within the reporting structure that I	10:37:21
25	referenced earlier.	10:37:30

Transcript of Pia Ellis
Conducted on December 18, 2023

26

1	Q Have you personally made any decision as	10:37:32
2	to whether you believe there is employee	10:37:34
3	dishonesty established under the policy?	10:37:36
4	MR. MURPHY: Just so we're clear, the	10:37:39
5	question is referring to you individually,	10:37:41
6	Ms. Ellis, just so you understand.	10:37:43
7	A No.	10:37:48
8	Q You've not made a decision as to whether	10:37:50
9	this is a covered claim; is that correct?	10:37:52
10	A No, I have not.	10:37:57
11	Q What recommendation have you made to your	10:37:59
12	superiors regarding the handling of this claim as	10:38:03
13	to how to resolve it?	10:38:06
14	A To continue our investigation.	10:38:12
15	Q What specific pieces of information do you	10:38:17
16	still need to get in your investigation that will	10:38:20
17	help you decide whether to agree that this is a	10:38:23
18	covered employee dishonesty claim?	10:38:27
19	A Well, there are still some items pending	10:38:38
20	from discovery at this time.	10:38:41
21	Q Discovery closes on January 12th of 2024.	10:38:47
22	Do you understand that?	10:38:50
23	A Yes.	10:38:52
24	Q Will Beazley make a decision after the	10:38:53
25	close of discovery on January 12th as to whether	10:38:58

Transcript of Pia Ellis
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Conducted on December 18, 2023

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1	Q Who has authority to settle this claim on	10:40:21
2	behalf of Beazley with International Paper?	10:40:28
3	A Beth Diamond.	10:40:34
4	Q Who is directing outside counsel with	10:40:49
5	regard to the litigation of this claim, who at	10:40:52
6	Beazley, that is, in-house?	10:40:56
7	A I am.	10:41:01
8	Q How many employee theft claims have you	10:41:05
9	handled over the course of your career, that is,	10:41:08
10	employee theft coverage or employee dishonesty	10:41:11
11	coverage claims to any of insurance companies that	10:41:15
12	you've worked for?	10:41:20
13	A I don't have the exact number.	10:41:21
14	Q Give me a rough estimate.	10:41:28
15	A Several hundred.	10:41:31
16	Q Have you seen other claims, employee theft	10:41:40
17	claims, like the one alleged by International	10:41:46
18	Paper, where a purchasing employee of the company	10:41:48
19	has awarded contracts to a third party and the	10:41:51
20	third party has funneled money from those	10:41:55
21	contracts back to the purchasing agent?	10:41:59
22	MR. MURPHY: Objection as to form.	10:42:01
23	A Well, each claim has, you know, unique	10:42:07
24	circumstances, so I can't say that I had something	10:42:11
25	specific to these set of circumstances.	10:42:15

Transcript of Pia Ellis
Conducted on December 18, 2023

29

1	Q Are you saying you think this is a unique	10:42:20
2	claim that you've never seen before?	10:42:24
3	A I'm saying that each claim has a unique	10:42:27
4	set of facts and circumstances.	10:42:31
5	Q Okay. Let's take a look at Exhibit 3.	10:42:33
6	(Marked for identification Exhibit 3,	10:42:37
7	LinkedIn bio.)	10:42:53
8	MR. SYLVESTER: I'll ask the tech to put	10:42:38
9	that in the chat room.	10:42:40
10	Q Exhibit 3 is a copy of your I think is	10:42:44
11	take bio, which I think is taken off of LinkedIn.	10:42:50
12	Are you familiar with that?	10:42:54
13	While you're opening that --	10:42:59
14	MR. SYLVESTER: -- I'll ask the tech to	10:43:01
15	put Exhibit 4 into the chat.	10:43:02
16	Q Do you have that --	10:43:08
17	A Yeah, I have it -- I have it open.	10:43:09
18	Q Okay. Is this a copy of your LinkedIn	10:43:11
19	bio?	10:43:14
20	A Yes, it is.	10:43:40
21	Q Okay. And it shows that you have a	10:43:42
22	bachelor's in sociology that you got from Miami	10:43:48
23	University in 2002, along with a minor in	10:43:53
24	criminology; is that correct?	10:43:55
25	A Yes.	10:43:58

Transcript of Pia Ellis
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1 Q And also a minor in developmental 10:43:59
2 psychology; is that right? 10:44:02
3 A Yes. 10:44:04
4 Q So, then you've worked for various 10:44:10
5 insurance companies since that, Progressive 10:44:14
6 Insurance Company, AIG, Chubb and now Beazley; is 10:44:18
7 that right? 10:44:21
8 A Yes, it is. 10:44:21
9 Q And in the course of working for those 10:44:22
10 different insurance companies, have you come to 10:44:26
11 handle insurance coverage claims under commercial 10:44:29
12 crime policies for employer dishonesty? 10:44:32
13 A From employer dishonesty? 10:44:39
14 Q I misspoke. Employee dishonesty. Let me 10:44:43
15 restate the question. 10:44:47
16 In the course of your working for those 10:44:47
17 various insurance companies after getting your 10:44:50
18 degrees at Miami University, have you come to work 10:44:52
19 on claims for employee theft and employee 10:44:56
20 dishonesty in the various insurance companies for 10:45:00
21 which you have been employed? 10:45:02
22 A Yes. 10:45:06
23 Q And would that be for all of the insurance 10:45:08
24 companies, that is Progressive, AIG, Chubb and 10:45:11
25 Beazley, that you address employee dishonesty, 10:45:16

Transcript of Pia Ellis
Conducted on December 18, 2023

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1 employee theft claims in each of those roles that 10:45:21
2 you had in the claims department of those 10:45:24
3 companies? 10:45:27

4 A All of them, excluding Progressive 10:45:28
5 Insurance. 10:45:32

6 Q Okay. So, Progressive, you worked, it 10:45:33
7 liked like, from the time of your graduation until 10:45:39
8 about 2007, you worked for Progressive, correct? 10:45:44

9 A I also worked for the City of New York, as 10:45:51
10 well. 10:46:01

11 Q Oh, okay. I didn't see that on your 10:46:01
12 resume. What was your position with the City of 10:46:03
13 New York? 10:46:06

14 A I was a child protective specialist. 10:46:07

15 Q Okay. And then starting in 2007, you took 10:46:13
16 a job at AIG as a fidelity bond analyst and worked 10:46:21
17 there for eight years or so, until 2015, followed 10:46:27
18 by working at Chubb for several years from 2015 to 10:46:32
19 2019 -- I'm sorry, to 2020. And then starting in 10:46:36
20 July of 2020, you worked for Beazley, correct? 10:46:41

21 A Yes, that's correct. 10:46:45

22 Q While working in the claims department 10:46:47
23 with AIG, Chubb and Beazley, you've had occasion 10:46:49
24 to handle claims involving employee theft and 10:46:53
25 employee dishonesty; is that right? 10:46:57

Transcript of Pia Ellis
Conducted on December 18, 2023

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1	A Yes.	10:46:58
2	Q So, I think you said hundreds of claims	10:46:59
3	you've handled of that nature, correct?	10:47:03
4	A Approximately.	10:47:07
5	Q And based on your education in psychology	10:47:08
6	and criminology and sociology, and based on your	10:47:12
7	experience in working on employee theft and	10:47:16
8	employee dishonesty cases from 2007 to the	10:47:20
9	present, have you come to understand some common	10:47:24
10	characteristics of an employee thief?	10:47:29
11	A Well, again, each circumstance has --	10:47:34
12	is -- is unique and has its own facts and details,	10:47:39
13	as well.	10:47:43
14	Q Right, but are there some commonalities of	10:47:46
15	the behavior and conduct that employees who carry	10:47:50
16	on a theft scheme with their company?	10:47:53
17	A They can vary.	10:48:07
18	Q Well, let's talk about a few. Is	10:48:10
19	deception something common to employee thieves?	10:48:13
20	A Potentially.	10:48:33
21	Q Is lying a common characteristic of	10:48:35
22	employee thieves?	10:48:40
23	MR. MURPHY: Well, I know there is a	10:48:44
24	question pending. These questions are to the	10:48:47
25	witness individually, correct, Mr. Sylvester?	10:48:49

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1	MR. SYLVESTER: Yes.	10:48:52
2	MR. MURPHY: Okay.	10:48:53
3	A Potentially.	10:48:54
4	Q Is misrepresentations to other persons	10:48:58
5	within the company a common characteristic of an	10:49:02
6	employee thief?	10:49:05
7	A Potentially.	10:49:10
8	Q Is concealment or covering up what he or	10:49:16
9	she is doing a common characteristic of an	10:49:21
10	employee engaged in employee theft?	10:49:23
11	A Concealment of what?	10:49:32
12	Q Of what the employee is doing to steal	10:49:34
13	from the company.	10:49:37
14	A From my own experience?	10:49:51
15	Q Well, in your experience in studying	10:49:54
16	criminology and handling hundreds of employee	10:49:57
17	theft and employee dishonesty cases, is one of the	10:50:00
18	telltale signs of an employee thief that that	10:50:05
19	employee thief is engaged in some concealment or	10:50:08
20	covering up of what he or she is doing to steal	10:50:12
21	from the company?	10:50:16
22	MR. MURPHY: Objection as to form.	10:50:16
23	You can answer.	10:50:19
24	A Potentially.	10:50:21
25	Q So, those are telltale signs that an	10:50:23

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1 employee may be stealing from the company, he's 10:50:26
2 engaged in deception, lying, misrepresentation to 10:50:30
3 his fellow employees, concealment of what he's 10:50:33
4 doing, right? 10:50:37

5 MR. MURPHY: Objection as to form. 10:50:37

6 A Potentially. 10:50:42

7 Q And in your experience, employee thieves 10:50:44
8 can be intelligent, right, at figuring out how to 10:50:51
9 steal from the company without anybody knowing 10:50:59
10 about it? 10:51:01

11 MR. MURPHY: Well, my apologies, could you 10:51:01
12 repeat the question that you -- you went out for 10:51:04
13 one word. I couldn't hear, Mr. Sylvester. 10:51:07

14 MR. SYLVESTER: Sure. I'll repeat it. 10:51:09

15 Q Ms. Ellis, would you agree that employee 10:51:11
16 thieves often are very intelligent in figuring out 10:51:15
17 ways to steal from the company without anybody 10:51:19
18 learning about it? 10:51:22

19 A I couldn't say specifically yes or no. 10:51:26

20 Q Well, would you agree that oftentimes 10:51:34
21 employee thieves abuse the trust that other 10:51:37
22 coworkers have in them and are able to steal from 10:51:43
23 the company because others aren't watching 10:51:46
24 everything that they are doing carefully -- 10:51:50

25 MR. MURPHY: Excuse me. 10:51:53

Transcript of Pia Ellis
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1 Q -- trust that person to act with honesty 10:51:55
2 and integrity? 10:51:58
3 MR. MURPHY: Objection as to form. 10:51:59
4 A Can you repeat that question, please? 10:52:02
5 Q Is a common situation with employee theft 10:52:05
6 one where the employee engaged in the theft is 10:52:08
7 actually a trusted employee that others in the 10:52:13
8 company trust not to do anything wrong and the 10:52:17
9 employee takes advantage of that trust to engage 10:52:21
10 in a theft scheme that nobody is checking on? 10:52:26
11 MR. MURPHY: Objection as to form. 10:52:32
12 A No. 10:52:35
13 Q You don't think that's common in employee 10:52:37
14 theft circumstances? 10:52:43
15 MR. MURPHY: Same objection. 10:52:43
16 A No. 10:52:51
17 Q The fact that an employee thief is an 10:52:53
18 upstanding member of the community doesn't mean 10:53:02
19 that he or she isn't stealing from the company, 10:53:04
20 right? 10:53:07
21 A Is that just a general? I -- can you 10:53:12
22 clarify what you're -- 10:53:15
23 Q Right. An employee thief can still be, on 10:53:17
24 the surface, an upstanding member of the 10:53:20
25 community, that doesn't preclude that person from 10:53:23

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1	stealing from his company, correct?	10:53:29
2	A Correct.	10:53:27
3	Q Are there any other common characteristics	10:53:31
4	of employee thieves that you've encountered in	10:53:33
5	handling hundred of cases of employee theft in	10:53:41
6	your job experience?	10:53:44
7	MR. MURPHY: Objection as to form.	10:53:46
8	A Can you repeat the question, please?	10:53:56
9	Q Sure. Are there any other	10:53:58
10	characteristics, other than the ones we've talked	10:54:00
11	about, that you believe are common characteristics	10:54:02
12	of the conduct of an employee thief that you've	10:54:08
13	seen over the years in handling employee theft	10:54:12
14	cases?	10:54:17
15	MR. MURPHY: Objection as to form.	10:54:17
16	A No.	10:54:20
17	Q When you worked at AIG as a fidelity bond	10:54:30
18	analyst, it said, at least in your LinkedIn bio,	10:54:36
19	that you worked with risk managers to quantify	10:54:39
20	claim losses due to various types of internal	10:54:42
21	employee thefts, robberies, burglaries and various	10:54:49
22	types of fraud; is that right?	10:54:52
23	Am I reading that correctly from your bio?	10:54:56
24	A Yes, it's in my bio.	10:55:05
25	Q And is that true?	10:55:08

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1	A Yes.	10:55:13
2	Q Have you done any work in this case to	10:55:13
3	quantify claim losses that are alleged to have	10:55:16
4	been suffered by International Paper?	10:55:21
5	A I would defer to the expert reports on	10:55:31
6	that.	10:55:35
7	Q And when you say "the expert reports," are	10:55:37
8	you talking about Ms. Rosemary Coates and Brad	10:55:39
9	Wilson whose expert reports Beazley has recently	10:55:45
10	submitted in the litigation?	10:55:51
11	A Yes.	10:55:54
12	Q Were you involved in the preparation of	10:55:55
13	those reports?	10:55:58
14	MR. MURPHY: Objection as to form.	10:56:04
15	You can answer.	10:56:06
16	A No.	10:56:08
17	Q Okay. We'll come back to that.	10:56:09
18	In your LinkedIn bio, you said working for	10:56:17
19	Chubb, which I guess you started as a fidelity	10:56:23
20	claims examiner Roman IV and then became claim	10:56:27
21	director. Was that a promotion that you got at	10:56:30
22	Chubb?	10:56:33
23	A Yes.	10:56:34
24	Q So you went to work in 2015 with Chubb.	10:56:35
25	Why did you leave AIG to go to work for Chubb?	10:56:40

Transcript of Pia Ellis
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1	A An advancement opportunity.	10:56:45
2	Q Okay. And while you were at Chubb, were	10:56:51
3	you only dealing with fidelity coverage claims?	10:56:53
4	A Yes.	10:57:06
5	Q And that included employee theft claims,	10:57:06
6	employee dishonesty claims?	10:57:10
7	A Yes.	10:57:11
8	Q Since there is no narrative under your	10:57:12
9	Chubb work as there was under AIG and Progressive,	10:57:22
10	describe what your role and responsibilities were,	10:57:27
11	both as a fidelity claim examiner and as a claims	10:57:31
12	director.	10:57:36
13	A I was handling claims on Chubb's	10:57:41
14	commercial form and financial fidelity forms. And	10:57:49
15	the claims could entail from employee dishonesty	10:57:54
16	premises, including robbery -- robbery/burglary,	10:58:00
17	computer fraud, fraudulent instruction or social	10:58:05
18	engineering types of losses.	10:58:09
19	Q In your position as a claims examiner and	10:58:15
20	a claims director, you have authority to make	10:58:19
21	decisions to accept coverage claims arising from	10:58:21
22	employee theft and employee dishonesty by the	10:58:27
23	policyholders?	10:58:30
24	A Yes.	10:58:34
25	Q And did you make decisions to accept or	10:58:35

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Conducted on December 18, 2023

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1	deny coverage on policyholder claims?	10:58:40
2	A For the acceptance of coverage.	10:58:49
3	Q Yes.	10:58:51
4	A Yes.	10:58:52
5	Q While you were handling employee theft and	10:58:53
6	employee dishonesty claims while at Chubb, there	10:59:00
7	were claims where you were able to agree that the	10:59:04
8	claim was covered, correct?	10:59:07
9	A Yes.	10:59:08
10	Q And were there also claims were you denied	10:59:09
11	coverage, saying the claim was definitively not	10:59:14
12	covered under the Chubb policy at issue?	10:59:18
13	A I didn't have denial authority.	10:59:21
14	Q Now that you're at Beazley, do you have	10:59:26
15	denial authority?	10:59:31
16	A No.	10:59:36
17	Q And with respect to International Paper's	10:59:38
18	claim for coverage, who has denial authority?	10:59:43
19	A William Clark.	10:59:52
20	Q Has William Clark made any recommendations	11:00:00
21	with regard to International Paper's claim for	11:00:04
22	coverage to his superiors?	11:00:07
23	A At this time, we don't, meaning Beazley,	11:00:14
24	does not have enough information to make a final	11:00:17
25	coverage determination for this matter.	11:00:20

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1 Q Well, you've been working at Beazley since 11:00:24
2 July of 2022. About how employee theft, employee 11:00:30
3 dishonesty claims are you handling or have you 11:00:36
4 handled in that three-and-a-half-year period? 11:00:38

5 A I don't have the exact number. 11:00:41

6 Q Give me a rough estimate, please. 11:00:44

7 A Again, I -- I don't -- I can't really 11:00:47
8 speculate. I don't have the exact number. 11:00:51

9 Q I'm not asking for the exact number. I 11:00:54
10 just want you to give me a rough estimate. Is it 11:00:56
11 in the dozens? Is it in the hundreds? 11:01:00

12 A I've handled claims, but I don't have an 11:01:05
13 approximation, though. 11:01:10

14 Q Is it more than ten? 11:01:11

15 A Yes. 11:01:18

16 Q Is it more than 100 employee theft, 11:01:19
17 employee dishonesty claims that you've had 11:01:23
18 responsibility for while at Beazley over the last 11:01:26
19 three and a half years? 11:01:28

20 A Again, I don't really have an exact 11:01:31
21 number. 11:01:33

22 Q Have you accepted other claims, that is, 11:01:34
23 you've agreed that other policyholders who have 11:01:38
24 made employee theft and employee dishonesty claims 11:01:40
25 to Beazley, that their claim was, in fact, covered 11:01:44

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1 under the crime policy that Beazley issued to
2 them?

11:01:47

11:01:50

3 A I have made coverage determinations for
4 matters under the policy.

11:01:58

11:02:02

5 Q And have you made affirmative coverage
6 determinations for other Beazley policyholders
7 that their employee theft or employee dishonesty
8 claim was, in fact, covered under the policy?

11:02:06

11:02:10

11:02:12

11:02:16

9 A Yes.

11:02:21

10 MR. MURPHY: Excuse me, Mr. Sylvester, not
11 right away, but within the next five minutes,
12 unfortunately, too much coffee, I'm going to need
13 a five-minute break, if you don't mind.

11:02:23

11:02:25

11:02:29

11:02:32

14 MR. SYLVESTER: Sure. Let me just finish
15 up this line quick and then we'll go on.

11:02:35

11:02:36

16 Q You said that you have made positive
17 coverage determinations. Have you also made
18 recommendations to your superior to deny coverage
19 for any employee theft or employee dishonesty
20 claims while at Beazley?

11:02:38

11:02:40

11:02:43

11:02:46

11:02:50

21 A I don't recall offhand.

11:02:57

22 Q You don't recall.

11:03:06

23 And as you've said a number of times with
24 respect to International Paper's claim for
25 coverage, you said Beazley does not have enough

11:03:08

11:03:12

11:03:14

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1 information at this time to determine whether, in 11:03:17
2 fact, there is a covered claim for employee theft 11:03:20
3 with regard to the scheme the employee Jag, who 11:03:25
4 was the purchasing manager for Global Sourcing 11:03:31
5 Specialty Chemicals; is that right, you don't have 11:03:39
6 enough information at this time to make a 11:03:41
7 decision? 11:03:43

8 MR. MURPHY: Objection as to form asked 11:03:43
9 and answered. 11:03:45

10 You can answer. 11:03:45

11 A Yes, that's correct. 11:03:46

12 Q Okay. So I would like you to explain, as 11:03:48
13 best as you can, because this deposition may be 11:03:51
14 shown to a court or a jury, as best as you can, 11:03:56
15 what additional facts one way or another that you 11:03:59
16 might learn in the rest of the discovery period in 11:04:02
17 this case will persuade you and Beazley one way or 11:04:06
18 another as to whether International Paper's 11:04:11
19 employee theft claim is covered or not covered 11:04:15
20 under the Beazley policy? 11:04:17

21 MR. MURPHY: Objection as to form. 11:04:18

22 A Are you look -- can you clarify the 11:04:22
23 question for me, please? 11:04:32

24 Q Sure. There has been a lot of information 11:04:33
25 provided, a lot of testimony provided in this 11:04:36

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1 case, a lot of facts and figures provided by 11:04:38
2 International Paper to Beazley of the past claim 11:04:43
3 (coughing). 11:04:47

4 I'm asking you to explain as best you can, 11:04:47
5 to the court or to the jury or who would listen, 11:04:50
6 what additional information do you expect or need 11:04:53
7 to get in the next remaining weeks of discovery in 11:04:57
8 this case that will allow Beazley to determine, 11:05:03
9 yes or no, is this a covered claim under the 11:05:06
10 Beazley policy? 11:05:10

11 MR. MURPHY: Same objection. 11:05:11

12 A I would defer to the expert reports on 11:05:19
13 that. 11:05:22

14 Q Well, the expert report only goes to 11:05:23
15 damages. It doesn't go to whether it's a covered 11:05:26
16 claim or not. So I'm asking, putting aside the 11:05:28
17 amount of damages or loss, what facts one way or 11:05:32
18 another are you expecting or that you need to get 11:05:36
19 in the remaining few weeks of discovery in this 11:05:40
20 case that will allow Beazley to make a 11:05:42
21 determination, yes or no, is this a covered claim 11:05:45
22 that International Paper has submitted to Beazley? 11:05:49

23 MR. MURPHY: Same objection. 11:05:52

24 A Again, we're hoping to have a decision in 11:06:11
25 the near term, but there are some items that are 11:06:16

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1 still pending from discovery. 11:06:18
2 Q Right. But could you tell me what 11:06:23
3 specific items it is that you're waiting for to 11:06:25
4 make a decision as to whether this is a covered 11:06:29
5 claim? 11:06:32
6 A We would need to have documentation that 11:06:34
7 demonstrates that there was employee dishonesty. 11:06:36
8 Q Right. And what kind of documentation 11:06:39
9 would satisfy you that there is employee 11:06:41
10 dishonesty? 11:06:43
11 MR. MURPHY: Objection as to form, asked 11:06:44
12 and answered. 11:06:50
13 A Well, as -- as stated previously, we would 11:06:50
14 need to have documentation that demonstrates that 11:06:54
15 there was an employee dishonesty with respect to 11:06:57
16 the policy language. 11:07:00
17 Q Can you point to any witness whose 11:07:03
18 testimony you're still waiting for to make that 11:07:06
19 determination? 11:07:09
20 A No. 11:07:18
21 Q Can you point to any specific document 11:07:30
22 whose production you're still waiting for in order 11:07:33
23 to make that determination? 11:07:36
24 MR. MURPHY: Objection as to form, asked 11:07:37
25 and answered. 11:07:45

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1 A Well, as I said previously, we need to 11:07:45
2 have documentation that demonstrates that there 11:07:48
3 was an employee dishonesty with respect to our 11:07:50
4 policy language. 11:07:53

5 Q But you can't identify any particular 11:07:54
6 document that would satisfy you at this point, as 11:07:57
7 you sit here today; is that correct? 11:08:01

8 MR. MURPHY: Objection as to form, calls 11:08:02
9 for speculation. 11:08:04

10 A I mean, again, Mr. Sylvester, we would 11:08:13
11 need to have documentation that demonstrates that 11:08:15
12 there is an employee dishonesty -- 11:08:18

13 Q And you're not satisfied -- 11:08:20

14 A -- under the policy. 11:08:22

15 Q And you're not --

16 A And we don't have that information. 11:08:24

17 MR. SYLVESTER: Okay. Your counsel has 11:08:28
18 asked for a break. Why don't we take a ten-minute 11:08:31
19 break. It's 11:08 a.m. Eastern. Go off the 11:08:34
20 record. 11:08:37

21 THE VIDEOGRAPHER: We are going off the 11:08:37
22 record. The time is 11:08 a.m. 11:08:39

23 (Off the record.) 11:08:41

24 (Marked for identification Exhibit 4, 11:20:55
25 Beazley commercial crime policy.) 11:21:19

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1	THE VIDEOGRAPHER: We are back on the	11:20:58
2	record. The time is 11:21 a.m.	11:21:06
3	BY MR. SYLVESTER:	11:21:09
4	Q Ms. Ellis, I would ask you to put before	11:21:09
5	you Exhibit Number 4, which we've marked as the	11:21:13
6	Beazley commercial crime policy at issue in this	11:21:19
7	case for the policy period the 1st of July, 2019,	11:21:22
8	through the 1st of July, 2020, policy number	11:21:27
9	V27C90190101.	11:21:33
10	Do you have that policy in front of you?	11:21:34
11	A Yes, I do.	11:21:39
12	Q You have seen this policy before. It's	11:21:40
13	the subject of International coverage...	11:21:43
14	(The court reporter asked for clarification.)	11:21:48
15	Q Have you seen this policy, this Beazley	11:21:51
16	commercial crime policy before, Exhibit Number 4,	11:21:56
17	which is the subject of International Paper's	11:21:58
18	claim for coverage in this case?	11:22:01
19	A Yes.	11:22:04
20	Q Have you had a chance to review this	11:22:04
21	policy and its terms and conditions in connection	11:22:07
22	with International Paper's claim for coverage?	11:22:11
23	A Yes.	11:22:16
24	Q And are you familiar with the terms, the	11:22:16
25	meaning and understanding of the terms and	11:22:20

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1	conditions of Beazley's policy?	11:22:23
2	A Yes.	11:22:28
3	Q You see on the first page that it shows a	11:22:29
4	premium amount of \$110,124 under the policy	11:22:36
5	information section of the first page of	11:22:43
6	Exhibit 4?	11:22:45
7	Do you see that?	11:22:46
8	A Yes.	11:22:48
9	Q And does Beazley acknowledge that	11:22:49
10	International Paper paid (coughing) the premium	11:22:52
11	for this policy?	11:22:56
12	(The court reporter asked for clarification.)	11:22:56
13	Q Does Beazley acknowledge that it	11:23:01
14	International Paper paid the premium for this	11:23:02
15	policy?	11:23:05
16	A Yes.	11:23:07
17	Q Is Beazley contending that International	11:23:08
18	Paper made any misrepresentations in the	11:23:14
19	procurement of this policy from Beazley?	11:23:19
20	A Could you repeat that question?	11:23:25
21	Q Is Beazley contending that International	11:23:28
22	Paper made any misrepresentations in procuring	11:23:32
23	this policy from Beazley?	11:23:36
24	A No.	11:23:37
25	Q Is Beazley contending that International	11:23:38

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1 Paper made any material nondisclosures or 11:23:42
2 omissions in its procurement of this policy from 11:23:46
3 Beazley? 11:23:50
4 A No. 11:23:55
5 Q The policy provides coverage for losses 11:23:56
6 resulting from employee theft. 11:24:01
7 Do you see that within the body of the 11:24:03
8 policy, particularly on page Bates numbered ending 11:24:09
9 in 020? 11:24:16
10 A What page number is that of the PDF? 11:24:19
11 Q Yeah, of the PDF -- let me check here. 11:24:22
12 Yeah, it's page 4 of the 36-page PDF. 11:24:35
13 A Okay. 11:24:39
14 Q See that there is an insuring agreement 11:24:43
15 saying that the underwriters, referencing Beazley, 11:24:47
16 shall indemnify the insured for loss resulting 11:24:50
17 directly from employee theft? 11:24:54
18 A Yes, I see that on the page. 11:24:57
19 Q And you understand that's what 11:24:59
20 International Paper is claiming happened, that it 11:25:01
21 was victimized by an employee theft scheme by its 11:25:04
22 former employee, Sitaraman Jagannath; do you 11:25:09
23 understand that? 11:25:15
24 A I understand that is the allegation. 11:25:15
25 Q And can we refer to Sitaraman Jagannath 11:25:18

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1 throughout this deposition as Jag for short? 11:25:22
2 A Yes. 11:25:26
3 Q Okay. Now, if you would, look at the 11:25:27
4 definition of employee theft, which is I think 11:25:35
5 four pages later in this document. See in the 11:25:38
6 definitions, the definition of employee theft, 11:25:50
7 it's on Bates number ending 024. 11:25:52
8 Do you have that? 11:25:58
9 A Yes. 11:25:59
10 Q And it says: Employee theft means the 11:25:59
11 unlawful taking of money, securities or property 11:26:02
12 to the deprivation of an insured by an employee, 11:26:06
13 whether identified or not, acting alone or in 11:26:12
14 collusion with others to obtain financial benefit 11:26:14
15 for the employee. 11:26:16
16 Do you see that? 11:26:17
17 A Yes. 11:26:20
18 Q And should there be a period after the 11:26:21
19 word "employee" before the start of the next words 11:26:25
20 in that definition? Is that a typo missing a 11:26:32
21 period because a new sentence is starting with 11:26:50
22 "financial benefit"? 11:26:52
23 A I'm not sure. 11:26:56
24 Q Well, do you read it to end with the word 11:27:02
25 "employee" before reading the words: Financial 11:27:07

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1 benefit does not include any employee benefits 11:27:12
2 earned in the normal course of employment, 11:27:16
3 including salaries, commission fees, bonuses, 11:27:18
4 promotions, awards, profit sharing or pensions. 11:27:20

5 Is that a separate sentence that is 11:27:24
6 following the first sentence that ends with the 11:27:27
7 word "employee"? 11:27:29

8 A Well, it's all part of the definition of 11:27:35
9 employee theft under the policy. 11:27:38

10 Q Okay. Well, let's take it one at a time. 11:27:40
11 Do you agree that International Paper is an 11:27:45
12 insured, correct? 11:27:47

13 A Yes, it's the named insured on the policy. 11:27:50

14 Q Would you agree that at the time of the 11:27:53
15 alleged loss that Jag was an employee of 11:27:57
16 International Paper as defined in this policy? 11:28:01

17 A Yes. 11:28:06

18 Q Now, it says: Theft means the unlawful 11:28:07
19 taking of money, securities for property to the 11:28:16
20 deprivation of an insured by an employee, whether 11:28:19
21 identified or not, acting alone or in collusion 11:28:22
22 with others to obtain financial benefit for the 11:28:25
23 employee. 11:28:28

24 Do you see that language? 11:28:28

25 A Yes. 11:28:32

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1 Q Do you understand that Jag has admitted 11:28:33
2 that some of the monies that were paid under his 11:28:36
3 direction from International Paper to his 11:28:42
4 brother's companies, DGS and Mid-South, were 11:28:44
5 transferred back to him into accounts that he 11:28:47
6 controlled? 11:28:51
7 Do you understand that? 11:28:51
8 A Beazley -- Beazley understands the 11:28:53
9 allegation. 11:28:57
10 Q Well, you've seen evidence of that, 11:28:58
11 correct? 11:29:01
12 A Again, we understand the allegation. 11:29:04
13 Q Well, you've seen a settlement agreement 11:29:06
14 signed by Jag where he admitted that, correct? 11:29:09
15 MR. MURPHY: Objection as to form. 11:29:12
16 You can answer. 11:29:14
17 A I have seen the settlement agreement. 11:29:16
18 Q And isn't it correct that, in that 11:29:19
19 settlement agreement, Jag signed the agreement and 11:29:23
20 he confirmed that some of the monies that were 11:29:28
21 paid under contract to DGS and Mid-South were 11:29:30
22 transferred back to accounts that he controlled; 11:29:34
23 isn't that right? 11:29:40
24 MR. MURPHY: Objection as to form. 11:29:40
25 You can answer. 11:29:41

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1 A Do you have a copy of the document for 11:29:44
2 reference? 11:29:46

3 Q Sure. I'll ask our tech to pull up 11:29:47
4 Exhibit 17. 11:29:51

5 11:29:52
6 (Marked for identification Exhibit 17,
settlement agreement.) 11:31:01

7 A/V TECHNICIAN: Counsel, would you like 11:30:22
8 this marked in sequence? This would be Number 5? 11:30:23

9 MR. SYLVESTER: No, just keep it 11:30:27
10 Exhibit 17. 11:30:30

11 A/V TECHNICIAN: Got it. Thank you. 11:30:30

12 Q Can you open the exhibit? 11:30:32

13 A Yes, I can open it. 11:30:54

14 Q Have you seen this settlement agreement 11:30:56
15 previously? 11:30:58

16 A Yes. 11:31:00

17 Q And have you studied it as part of your 11:31:03
18 investigation of this case? 11:31:10

19 MR. MURPHY: Objection as to form. 11:31:13

20 You can answer. 11:31:15

21 A I've seen the document previously. 11:31:17

22 Q Okay. Can you turn to paragraph 15 of the 11:31:20
23 settlement agreement? It's at the bottom of 11:31:24
24 page 3. 11:31:37

25 A Okay. 11:31:38

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1 Q Do you see where it says: The related 11:31:38
2 parties, and specifically Jag and Shiv, agree that 11:31:42
3 DGS and Mid-South received funds from IP pursuant 11:31:46
4 to their contracts with IP and its suppliers, and 11:31:51
5 further agree that some of those funds were 11:31:53
6 transferred to accounts controlled by Jag. 11:31:55

7 Do you see that? 11:31:57

8 A I do. 11:31:59

9 Q And "Shiv" is referring to Shiv Kumar, who 11:32:00
10 is the half-brother of Jag, correct? 11:32:07

11 A Yes, that's what -- what's been reported. 11:32:10

12 Q Do you have any reason to believe 11:32:14
13 otherwise? 11:32:16

14 A Again, that's what's been reported 11:32:23
15 throughout the claim. 11:32:27

16 Q Right. But I'm saying that there's 11:32:28
17 evidence in the record that Jag and Shiv are 11:32:36
18 half-brothers. 11:32:41

19 Does Beazley have any reason to believe 11:32:42
20 that that's not true? 11:32:45

21 A Based on current information, we do not. 11:32:52

22 Q Okay. And DGS and Mid-South, those are 11:32:56
23 diversity supply entities that were controlled by 11:33:00
24 Shiv, correct? 11:33:05

25 A That's what has been reported, yes. 11:33:12

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1 Q Does Beazley have any reason to believe 11:33:15
2 otherwise, that DGS and Mid-South were not 11:33:17
3 controlled by Shiv? 11:33:21
4 A Again, that's what's been reported -- 11:33:23
5 Q Do you have -- 11:33:26
6 A -- in the claim information. 11:33:27
7 Q I'm sorry. 11:33:28
8 Do you have any contrary information that 11:33:28
9 DGS and Mid-South were not the controlled by Jag's 11:33:31
10 brother Shiv? 11:33:35
11 A Again, it's -- it's what's been reported 11:33:42
12 in the claim information. 11:33:44
13 Q Right. Do you believe it to be true? 11:33:45
14 MR. MURPHY: Objection as to form. 11:33:51
15 You can answer. 11:33:53
16 A Again, it's what's been reported in the 11:33:55
17 claim presentation. 11:34:00
18 Q Based on your analysis of all the 11:34:00
19 documentation in the case, all of the evidence and 11:34:02
20 testimony, do you believe that that's true, that 11:34:06
21 DGS and Mid-South were entities controlled by 11:34:09
22 Shiv, Jag's brother? 11:34:12
23 MR. MURPHY: Same objection. 11:34:14
24 You can answer. 11:34:16
25 A Again, that's what's been reported. 11:34:17

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1 Q I know it's been reported. My question 11:34:20
2 is, do you believe it to be true? 11:34:22
3 MR. MURPHY: Same objection. 11:34:25
4 A And, again, Mr. Sylvester, that's what's 11:34:28
5 been alleged. It's what has been reported, but -- 11:34:31
6 Q Does Beazley have any evidence to 11:34:35
7 contradict the notion that Shiv controlled both 11:34:38
8 DGS and Mid-South? 11:34:43
9 A Again, that's what's been reported. 11:34:46
10 Q It says in paragraph 15 that: Both Jag 11:34:49
11 and Shiv agree that DGS admits received funds from 11:34:56
12 IP pursuant to their contracts with IP and its 11:35:03
13 suppliers and further agree that some of those 11:35:05
14 funds were transferred to accounts controlled by 11:35:07
15 Jag. 11:35:10
16 Do you see that? 11:35:11
17 A I see item 15, yes. 11:35:13
18 Q Would that constitute financial benefit 11:35:17
19 for Jag? 11:35:20
20 A Potentially. 11:35:30
21 Q If that fact is true, would that 11:35:32
22 constitute financial benefit for the employee, 11:35:37
23 Jag, as referenced in the definition of employee 11:35:42
24 theft? 11:35:45
25 MR. MURPHY: Objection as to form, asked 11:35:46

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1	and answered.	11:35:51
2	A Potentially.	11:35:51
3	Q Does Beazley have any reason to believe	11:35:53
4	that that's not true, that is, that some of the	11:35:55
5	funds that DGS and Mid-South received from IP were	11:35:59
6	not transferred to accounts controlled by Jag?	11:36:05
7	MR. MURPHY: Objection as to form.	11:36:08
8	A Can you repeat the question, please?	11:36:11
9	Q Sure. Does Beazley have any reason to	11:36:13
10	believe that that statement signed by Jag and Shiv	11:36:15
11	in paragraph 15 is not true, that is, that funds	11:36:19
12	from DGS and Mid-South were not transferred to	11:36:24
13	accounts controlled by Jag?	11:36:28
14	A And I'm sorry, can you repeat the question	11:36:36
15	again for me, please?	11:36:39
16	Q Yes. Do you see the statement made in	11:36:41
17	paragraph 15 of the settlement agreement with Jag	11:36:43
18	and Shiv?	11:36:46
19	Do you see that?	11:36:47
20	A Yes, yes.	11:36:48
21	Q Page 3, bates number ending in 0615.	11:36:49
22	Does Beazley have any evidence or reason	11:36:54
23	to believe that the statement in paragraph 15 is	11:36:58
24	not correct?	11:37:02
25	A With respect to --	11:37:11

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1 Q With respect to some of the funds of DGS 11:37:17
2 and Mid-South that they received from contracts 11:37:20
3 with International Paper were transferred to 11:37:23
4 accounts controlled by Jag? 11:37:25

5 A I don't know. 11:37:33

6 Q I'm asking you as the corporate 11:37:37
7 representative of Beazley, as you sit here today, 11:37:39
8 does Beazley have any evidence to suggest that 11:37:44
9 that statement is not true? 11:37:46

10 MR. MURPHY: Objection as to form, asked 11:37:49
11 and answered. 11:37:57

12 A Again, I'm not sure. 11:37:57

13 Q Are you aware of any evidence based on 11:38:01
14 your investigation of this claim to suggest that 11:38:03
15 that statement in paragraph 15 is not true? 11:38:07

16 MR. MURPHY: I believe counsel is asking 11:38:11
17 you as an individual fact witness right now, 11:38:13
18 Ms. Ellis. 11:38:17

19 A I am not. 11:38:23

20 Q And if that statement is true, 11:38:26
21 paragraph 15, would that constitute financial 11:38:29
22 benefit for the employee, Jag, as referenced in 11:38:32
23 the definition of an employee -- in the Beazley 11:38:35
24 policy, Exhibit 4? 11:38:40

25 MR. MURPHY: Objection as to form, asked 11:38:42

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1 and answered. 11:38:44
2 You can answer. 11:38:44
3 A Potentially. 11:38:47
4 Q When you say "potentially," why would it 11:38:48
5 not be? What's the possibility that it's not for 11:38:52
6 the financial benefit of Jag? 11:38:58
7 A Well, again, it potentially could. 11:39:13
8 Q Well, isn't that something you have to 11:39:18
9 decide in order to determine whether this is a 11:39:20
10 covered claimed? 11:39:22
11 A Well, we would have to have documentation 11:39:27
12 of an employee dishonesty first. 11:39:29
13 Q Well, I understand that. But with regard 11:39:33
14 to needing the definition of employee theft, that 11:39:36
15 there was financial benefit for the employee, 11:39:43
16 isn't that something you'd have to determine to 11:39:47
17 determine whether there was a covered claim, was 11:39:48
18 there any financial benefit to the employee, Jag, 11:39:50
19 from the alleged scheme? 11:39:52
20 Isn't that part of your decision-making 11:39:53
21 process? 11:39:58
22 A It's part of the definition of employee 11:39:58
23 theft. 11:40:00
24 Q What more do you need to make a 11:40:03
25 determination as to whether Jag received financial 11:40:06

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1	benefit from this arrangement that he had with his	11:40:10
2	brother's companies?	11:40:13
3	A Other than line 15?	11:40:16
4	Q Do you need anything else other than	11:40:36
5	line 15 (coughing) Jag received a financial	11:40:38
6	benefit from his arrangement with his brother's	11:40:41
7	companies?	11:40:45
8	MR. MURPHY: Objection as to form.	11:40:48
9	A We would need documentation to support any	11:40:57
10	allegation.	11:41:04
11	Q Well, under this settlement agreement, Jag	11:41:07
12	and Shiv paid \$15 million back to International	11:41:11
13	Paper, correct?	11:41:15
14	A Yes.	11:41:27
15	Q Where do you think they got the money	11:41:29
16	from?	11:41:33
17	MR. MURPHY: Objection as to form, calls	11:41:36
18	for speculation.	11:41:38
19	A Where does Beazley believe they obtained	11:41:45
20	the settlement funds?	11:41:48
21	Q Correct.	11:41:49
22	MR. MURPHY: Same objection.	11:41:52
23	A Could you clarify the question?	11:42:04
24	Q Yeah. The question is, simply, Jag and	11:42:09
25	Shiv agreed in the settlement agreement to pay \$15	11:42:11

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1 million to International Paper. 11:42:13
2 Where do you think they got that kind of 11:42:16
3 money, based on your investigation? 11:42:18
4 A I don't -- I don't recall the exact source 11:42:33
5 of the settlement funds. 11:42:39
6 Q Do you think that they got the money 11:42:41
7 through legitimate business operations? 11:42:43
8 MR. MURPHY: Objection as to form. 11:42:46
9 A I can't really speculate on the source of 11:42:52
10 those funds. 11:42:55
11 Q Why do you think that they would pay it 11:43:00
12 other than recognizing or acknowledging that they 11:43:02
13 obtained it wrongfully? 11:43:06
14 Why do you think that they would have paid 11:43:08
15 it back to International Paper? 11:43:10
16 MR. MURPHY: Objection as to form. 11:43:14
17 A I can't speculate on their rationale for 11:43:19
18 doing so. 11:43:27
19 Q Doesn't it suggest to you that they 11:43:28
20 acknowledged that they had wrongfully obtained 11:43:31
21 this dollar -- these dollars and that's why 11:43:34
22 they're paying it back in settlement rather than 11:43:37
23 proceeding with civil and criminal proceedings? 11:43:40
24 MR. MURPHY: Objection, form. 11:43:45
25 You can answer. 11:43:46

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1 A Well, I understand the criminal case was 11:43:52
2 dismissed. 11:43:55

3 Q Correct, as part of the deal. 11:43:56

4 Let's go back to the definition of 11:44:01
5 employee theft in the policies. 11:44:03

6 Do you have that in front of you? 11:44:09

7 A Yes. 11:44:11

8 Q It says: Employee theft means the 11:44:12
9 unlawful taking of monies, securities or property 11:44:15
10 to the deprivation of the insured. 11:44:18

11 Do you see that? 11:44:20

12 A Yes. 11:44:22

13 Q And what does "unlawful" mean in that 11:44:23
14 provision? 11:44:27

15 MR. MURPHY: Objection as to form. 11:44:29

16 A It's an undefined term. 11:44:34

17 Q The word "unlawful" is undefined in the 11:44:40
18 Beazley policy Exhibit 4; is that right? 11:44:44

19 A Yes, that's correct. 11:44:46

20 Q How does Beazley interpret that for 11:44:48
21 purposes of considering claims for employee theft? 11:44:53

22 How does Beazley consider unlawful to be 11:44:57
23 defined or what it means? 11:45:01

24 MR. MURPHY: Objection as to form. 11:45:05

25 You can answer. 11:45:07

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1 A We would refer to the dictionary 11:45:12
2 definition. 11:45:15

3 Q And what dictionary would you look to, to 11:45:16
4 get that definition? 11:45:23

5 MR. MURPHY: Same objection. 11:45:25

6 A For the -- the Black's Law. 11:45:26

7 Q Black's Law dictionary. 11:45:33

8 Okay. Would you agree that for there to 11:45:35
9 be an unlawful taking to satisfy that provision of 11:45:40
10 this definition, (technical difficulty) need not 11:45:44
11 be convicted... 11:45:48

12 MR. MURPHY: You faded out. 11:45:53

13 THE WITNESS: You were going out. 11:45:55

14 Q I'm sorry. 11:45:56

15 (Off the record.) 11:46:04

16 Q Would you agree, Ms. Ellis, that an 11:46:09
17 employee need not be convicted of a crime for him 11:46:13
18 or her to have engaged in an unlawful taking as 11:46:16
19 defined in this definition of employee theft in 11:46:21
20 the Beazley policy? 11:46:25

21 MR. MURPHY: Objection as to form, goes 11:46:26
22 beyond the scope. 11:46:29

23 A The policy doesn't require criminal 11:46:35
24 conviction. 11:46:38

25 Q You understand that Jaq and Shiv were 11:46:45

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1 charged criminally by the federal government for 11:46:52
2 the arrangement that they had going on between IP 11:46:57
3 Global Sourcing Specialty Chemicals Group on the 11:47:03
4 one hand and DGS Mid-South on the other hand, do 11:47:06
5 you not? 11:47:11

6 MR. MURPHY: Objection as to form. 11:47:11

7 A Yes, we understand that. 11:47:16

8 Q Is the criminal charge by the U.S. 11:47:18

9 Attorney's Office evidence that their actions were 11:47:26

10 unlawful in the arrangement that they had going on 11:47:29

11 between IP's Specialty Chemicals Group and DGS and 11:47:36

12 Mid-South? 11:47:42

13 MR. MURPHY: Objection as to form. 11:47:43

14 A Well, again, the criminal matter was 11:47:48

15 dismissed. 11:47:50

16 Q Right. It was dismissed as part of a 11:47:54

17 settlement. But the fact that the U.S. Attorney's 11:47:56

18 Office charged them criminally, is that evidence 11:48:00

19 that what they were engaged in was unlawful? 11:48:02

20 MR. MURPHY: Objection as to form. 11:48:06

21 A Again, the case -- the criminal matter was 11:48:14

22 dismissed and there was no conviction. 11:48:17

23 Q Right. But you said that a criminal 11:48:20

24 conviction is not required under the policy, 11:48:23

25 right? 11:48:26

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1 A Correct. 11:48:27

2 Q So, what is required in order to 11:48:27

3 demonstrate to Beazley that their activity was 11:48:31

4 unlawful? 11:48:34

5 A It would have to be an actual taking of 11:48:50

6 money, securities or property by an employee 11:48:54

7 pursuant to the definition of employee theft. 11:49:02

8 Q Well, does Beazley have any evidence to 11:49:07

9 demonstrate that this arrangement that Jag and 11:49:12

10 Shiv had between IP's Specialty Chemicals Group 11:49:18

11 and DGS and Mid-South on other hand was not 11:49:24

12 unlawful? 11:49:27

13 A At this time, Beazley does not have 11:49:35

14 enough -- have documentation that demonstrates 11:49:37

15 that there was an employee theft resulting in 11:49:42

16 employee dishonesty. 11:49:45

17 Q When you say that Beazley does not have 11:49:48

18 enough documentation, you understand that the 11:49:51

19 document discovery in this case closed earlier 11:49:53

20 this month, correct? 11:49:56

21 MR. MURPHY: Objection as to form, beyond 11:49:58

22 the scope of the notice. 11:50:00

23 You can answer as an individual. 11:50:01

24 A Can you repeat the question, please? 11:50:05

25 Q Yes. Do you understand that document 11:50:07

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1 discovery in this case closed earlier this month? 11:50:10

2 MR. MURPHY: Same objection. 11:50:14

3 A Yes. 11:50:23

4 Q So, there is not going to be any more 11:50:25
5 document exchange between the parties in this 11:50:29
6 case. So, when you say you need more 11:50:32
7 documentation, does that mean that you're denying 11:50:34
8 coverage because the documents that you've 11:50:37
9 received, which are now complete from 11:50:39
10 International Paper, don't satisfy you that 11:50:42
11 there's been an employee theft? 11:50:46

12 MR. MURPHY: Objection as to form, 11:50:48
13 compound, misleading, improper characterizations. 11:50:50

14 You can answer. 11:50:54

15 A Again, it's -- as in my previous response, 11:51:00
16 we have not received enough information to 11:51:06
17 demonstrate that there was an employee dishonesty. 11:51:42

18 Q So, does that mean you're denying coverage 11:51:13
19 now that there is no further documentation that 11:51:15
20 will be exchanged in the case? 11:51:18

21 MR. MURPHY: Objection as to form, asked 11:51:20
22 and answered. 11:51:26

23 A Again, as previously stated, we have not 11:51:26
24 made a coverage determination at this time. 11:51:31

25 Q Going back to the definition of employee 11:51:44

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1 what I just said? 11:53:14

2 A Well, you're -- I'm not really sure what 11:53:16

3 you're asking, to be honest. 11:53:28

4 Q I'll give you an example. Let's assume 11:53:30

5 that there is a covered employee-theft claim and 11:53:32

6 everybody at Beazley agrees it's a covered claim, 11:53:35

7 and the insured demonstrates a loss of \$1 million. 11:53:38

8 And it turns out that the employee who 11:53:44

9 engaged in the theft got \$500,000 of that million 11:53:48

10 and then somebody else on the outside got the 11:53:52

11 other 500,000. 11:53:54

12 Would you agree that the insured's loss is 11:53:55

13 not limited to the amount of financial benefit 11:53:59

14 that the employee received; it's entitled to 11:54:02

15 coverage for the full amount of its loss? 11:54:06

16 MR. MURPHY: Objection as to form, 11:54:09

17 hypothetical, beyond the scope of the notice. 11:54:11

18 You can answer. 11:54:13

19 A I -- I don't think I could answer 11:54:21

20 affirmatively yes or no in that example. 11:54:24

21 Q Well, then let's talk about the real claim 11:54:28

22 that International Paper has made. International 11:54:31

23 Paper, in proving its loss from the employee-theft 11:54:35

24 scheme involving Jag and Shiv, does not need to be 11:54:41

25 the same amount of money that Jag has received in 11:54:46

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1 financial benefit from the scheme; would you agree 11:54:53
2 with that? 11:54:55

3 MR. MURPHY: Objection as to form. 11:54:58

4 A Yes, it's still subject to the terms and 11:55:06
5 conditions of the policy. 11:55:10

6 Q Okay. Thank you. 11:55:11

7 A And any potential exclusions. 11:55:19

8 Q Right. But assuming there is a covered 11:55:22
9 claim, the insured's loss for which it can obtain 11:55:26
10 coverage under the Beazley policy is not limited 11:55:30
11 to the amount of financial benefit that the 11:55:32
12 employee thief has obtained from the arrangement? 11:55:35

13 MR. MURPHY: Objection as to form. 11:55:38

14 A Again, subject to the terms and conditions 11:55:44
15 of the policy, and any applicable exclusions. 11:55:46

16 Q Right. The answer is, yes, subject to the 11:55:51
17 other terms and conditions of the policy, 11:55:53
18 including exclusions, correct? 11:55:55

19 MR. MURPHY: Objection as to form, asked 11:55:57
20 and answered. 11:56:02

21 A Yes, as previously stated. 11:56:02

22 Q Okay. I think I asked you this before, 11:56:06
23 but forgive me if I did, but you would agree that 11:56:13
24 Jag qualifies as an employee under the definition 11:56:16
25 of employee theft for purposes of this claim, 11:56:20

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1 correct? 11:56:22
2 A Yes, as previously stated. 11:56:23
3 Q Okay. Now, let's take a look at 11:56:26
4 Exhibits 5 and 6. 11:56:33
5 Exhibit 5 is International's complaint in 11:56:35
6 this action. 11:56:39
7 (Marked for identification Exhibits 5 & 6, 11:56:39
8 International's complaint & answer filed by 11:56:38
9 Beazley.) 11:56:44
10 Q Exhibit 6 is the answer filed by Beazley 11:56:40
11 in this case. 11:56:45
12 Tell me when you have those saved and 11:56:45
13 opened. 11:56:51
14 A Bear with me here. 11:57:18
15 Okay, I have Exhibit 5 open. 11:57:27
16 Q Okay. And if you look on Exhibit 5, which 11:57:29
17 is International's complaint, there is a breach of 11:57:33
18 contract count that is on page 11 of the 11:57:37
19 complaint. 11:57:40
20 Can you turn to that page? 11:57:41
21 A Okay. I have it opened. 11:57:51
22 Q See that in paragraph 72 of 11:57:54
23 International's complaint, it says: Defendants -- 11:58:02
24 and at this time was referring to both Beazley and 11:58:04
25 Zurich, although Zurich is now settled out of the 11:58:07

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1 case -- but defendants have breached their 11:58:10
2 contracts of insurance affording coverage to 11:58:13
3 International Paper by refusing or failing to 11:58:15
4 acknowledge their duty to provide coverage to 11:58:17
5 International Paper for all -- for the 11:58:21
6 employee-theft scheme. 11:58:24

7 And then 73 says: All conditions 11:58:24
8 precedent to recovery under the crime policies 11:58:27
9 have been satisfied or waived. 11:58:30

10 And then 74 says -- and it carries over to 11:58:32
11 page 12: As a direct result of defendant's 11:58:37
12 breaches of their contract of insurance, 11:58:41
13 International Paper has been deprived of the 11:58:43
14 benefit of the insurance coverage for which 11:58:45
15 substantial premiums were paid. International 11:58:47
16 Paper has incurred actual damages because it has 11:58:51
17 suffered many millions of dollars of financial 11:58:54
18 losses and has incurred substantial sums in 11:58:57
19 investigating these losses and pursuing recovery 11:59:01
20 from Jag with no coverage for those losses and 11:59:04
21 expenses from the insureds. 11:59:08

22 Now, I want to turn to the corresponding 11:59:10
23 responses in the answer to the complaint by 11:59:14
24 Beazley, paragraph 72 to 75, can you open up 11:59:18
25 Exhibit 6? 11:59:22

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1 Starting on page 9, there is the response 11:59:23
2 to the breach of contract counts in the complaint. 11:59:36
3 A I have it open. 11:59:42
4 Q Okay. And do you see bottom of page 9, it 11:59:44
5 says: Count 1 breach of contract. 11:59:49
6 And skipping over to paragraph 72, 73, 74, 11:59:52
7 which I just read into the record of the 11:59:56
8 complaint: Beazley denies the allegations of 11:59:59
9 paragraph 72 of the complaint. Beazley denies the 12:00:02
10 allegations of paragraph 73 of the complaint. 12:00:06
11 Beazley denies the allegations in paragraph 74 of 12:00:08
12 the complaint. 12:00:11
13 Do you see that? 12:00:12
14 A Yes. 12:00:14
15 Q And underneath that, right above the 12:00:15
16 heading affirmative defenses, it says: Beazley 12:00:18
17 denies that plaintiff is entitled to any of the 12:00:22
18 relief requested. 12:00:25
19 Do you see that language? 12:00:26
20 A Yes. 12:00:28
21 Q So, at the time that -- at the time that 12:00:29
22 this answer was filed -- and you can check at the 12:00:34
23 top of the page, it was filed December 7th, 2022, 12:00:38
24 about a year ago. 12:00:43
25 Beazley was denying that plaintiff was 12:00:44

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1 entitled to any coverage that it was requesting at 12:00:49
2 that time. 12:00:54

3 Do you see that language? 12:00:54

4 A Yes, I do. 12:00:57

5 Q And isn't it the case that at the time 12:01:00
6 that it denied that International Paper was 12:01:04
7 entitled to relief a year ago when this document 12:01:07
8 was filed, Beazley had not made a decision as to 12:01:11
9 whether coverage was afforded or not afforded for 12:01:16
10 this claim? 12:01:19

11 A Can you repeat the question? 12:01:29

12 Q Yeah. This answer to the complaint was 12:01:31
13 filed by Beazley a year ago, right? 12:01:33

14 A Yes. 12:01:37

15 Q And as of today, a year later, you're 12:01:38
16 saying Beazley has not made a decision whether 12:01:42
17 IP -- and when I say "IP," I'm referring to 12:01:45
18 International Paper -- as of today, Beazley has 12:01:48
19 not made a decision on whether International Paper 12:01:51
20 is entitled to coverage for the employee-theft 12:01:54
21 scheme that it has submitted to Beazley, right? 12:01:57

22 A Yes, that's correct. 12:02:02

23 Q And so, the same would have been true as 12:02:04
24 of a year ago when this document, this answer was 12:02:06
25 filed, that Beazley had not made a coverage 12:02:09

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1 decision, right? 12:02:12
2 A Beazley was still in the process of 12:02:16
3 evaluating the claim. 12:02:19
4 Q Okay. So, what, then, follows in the 12:02:21
5 answer that Beazley filed are what's called 12:02:25
6 affirmative defenses, and there's 15 of them. 15 12:02:28
7 reasons why the claim may not be covered. 12:02:34
8 Do you see that? 12:02:38
9 A Yes, I do. 12:02:41
10 Q I think you said you reviewed this answer 12:02:42
11 and affirmative defenses in preparation for the 12:02:48
12 depo here today; is that right? 12:02:51
13 A Yes. 12:02:52
14 Q So, my question is, as of a year ago, 12:02:53
15 Beazley was putting out these 15 potential reasons 12:03:00
16 why a claim wasn't covered. We're now a year 12:03:02
17 later, nearing the close of discovery, following 12:03:08
18 the end of document discovery, nearing the end of 12:03:10
19 deposition discovery, does Beazley contend that 12:03:13
20 any of these affirmative defenses that were 12:03:18
21 reserved when it filed its answer a year ago, is 12:03:22
22 Beazley satisfied that some of them are not 12:03:25
23 applicable to this claim such that Beazley is 12:03:27
24 prepared to withdraw them? 12:03:30
25 A We have a few that are not being pursued, 12:03:39

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1 but we're not necessarily withdrawing them. 12:03:44
2 Q Okay. Well, tell me which affirmative 12:03:48
3 defenses of these 15 Beazley is not pursuing. 12:03:51
4 MR. MURPHY: And if I can just interject, 12:03:58
5 Pia, before you respond, I just want to be clear 12:04:02
6 for the record, the first affirmative defense is 12:04:04
7 being withdrawn. 12:04:07
8 And I'm sure Ms. Ellis is in agreement, 12:04:10
9 but you can certainly ask it. 12:04:12
10 MR. SYLVESTER: Okay. Thanks, Gene. 12:04:16
11 Q So, your counsel stated that the first 12:04:18
12 affirmative defense, the complaint fails to state 12:04:19
13 a claim upon which relief can be granted. 12:04:22
14 Beazley is not pursuing that affirmative 12:04:25
15 defense; is that right? 12:04:29
16 A Yes, that's correct. 12:04:30
17 Q But you're not withdrawing it, or you are 12:04:31
18 withdrawing it? 12:04:35
19 A We are withdrawing it. 12:04:37
20 Q Okay. Okay. Tell me what other 12:04:40
21 affirmative defenses Beazley is not pursuing? 12:04:45
22 A The 5th affirmative defense. 12:04:52
23 Q Okay. So, the 5th affirmative defense: 12:04:56
24 Plaintiff's claims are barred in whole or in part 12:04:59
25 to the extent that the fraudulent, dishonest or 12:05:02

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1	criminal exclusion in the Beazley policy applies.	12:05:06
2	You're not pursuing that, right?	12:05:08
3	A Correct.	12:05:10
4	Q And the -- is Beazley withdrawing that	12:05:13
5	defense?	12:05:16
6	A No, it's not being pursued at this time.	12:05:20
7	Q Not pursued, but you're not withdrawing	12:05:23
8	it --	12:05:26
9	A Yes, that's correct.	
10	Q -- is that correct?	12:05:27
11	A Yes, that's correct.	12:05:27
12	Q And the 5th affirmative defense, which is	12:05:28
13	on page 11, says at the end of it, I mean, that	12:05:33
14	that exclusion has a specific exception when	12:05:40
15	covered under the employee-dishonesty client	12:05:45
16	property coverage or expense coverage insuring	12:05:49
17	agreements, right?	12:05:53
18	A Yes, it does.	12:05:53
19	Q So, that exclusion does not apply to	12:05:54
20	employee-dishonesty claims, and that's the nature	12:05:59
21	of the claim that International Paper is making in	12:06:01
22	this case, right?	12:06:03
23	A Yes, as stated under the policy.	12:06:08
24	Q So, why isn't Beazley then withdrawing it	12:06:11
25	if it doesn't -- if it can't apply to an employee	12:06:16

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1	dishonesty claim, which is the claim which is	12:06:28
2	being made by International Paper in this case?	12:06:23
3	A Again, as stated previously, it's not	12:06:34
4	being pursued at this time.	12:06:32
5	Q But you're reserving the right to pursue	12:06:35
6	it at later time; is that -- you're not	12:06:38
7	withdrawing it, so you're reserving the right to	12:06:40
8	pursue it at a later time; is that right?	12:06:44
9	A We're not withdrawing it, but we're not	12:06:46
10	pursuing it at this point in time.	12:06:48
11	Q Okay. Well, how could this exclusion for	12:06:51
12	fraudulent, dishonest or criminal exclusion ever	12:06:57
13	apply to International Paper's claim when there is	12:07:01
14	a specific exception for coverage under the	12:07:03
15	employee-dishonesty portion of the policy, which	12:07:11
16	is the only portion of the policy that	12:07:13
17	International Paper is pursuing its claim under?	12:07:16
18	A We hadn't made a coverage determination	12:07:18
19	yet at this point with respect to the employee	12:07:22
20	dishonesty entering agreement under the policy.	12:07:26
21	So, again, it's not being pursued, but	12:07:32
22	we're not withdrawing it either.	12:07:35
23	Q What potential fraudulent, dishonest or	12:07:40
24	criminal exclusion might possibly serve to prevent	12:07:42
25	IP from recovering coverage for its	12:07:49

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1	employee-dishonesty claim?	12:07:54
2	A Well, I can't really speculate, but,	12:08:00
3	again, it's not being pursued, but we're not	12:08:02
4	withdrawing it at this point either.	12:08:06
5	Q Okay. What other affirmative defenses are	12:08:08
6	Beazley not pursuing and/or withdrawing?	12:08:14
7	A The 6th affirmative defense.	12:08:19
8	Q Okay. The potential income exclusion.	12:08:26
9	Beazley is not pursuing it; is that right?	12:08:31
10	A Yes, that's correct.	12:08:34
11	Q Is Beazley withdrawing that defense?	12:08:36
12	A No.	12:08:39
13	Q Why not?	12:08:40
14	A Again, it's not being pursued at this	12:08:46
15	point, but we're not withdrawing it either.	12:08:49
16	Q Okay. What other affirmative defenses are	12:08:56
17	not being pursued and/or being withdrawn by	12:08:58
18	Beazley?	12:09:04
19	A The 9th.	12:09:04
20	Q Ninth affirmative defense?	12:09:14
21	A On page 12.	12:09:16
22	Q Okay. The 9th affirmative defense says:	12:09:18
23	Pursuant to the discovery provision in the Beazley	12:09:21
24	policy, plaintiff's claims are barred to the	12:09:23
25	extent they were discovered prior to the policy	12:09:27

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1	period for the Beazley policy.	12:09:30
2	Beazley is withdrawing the 9th affirmative	12:09:31
3	defense; is that right?	12:09:34
4	A We're not pursuing it. It's not being	12:09:35
5	withdrawn. It's not being pursued at this time,	12:09:38
6	but we are not withdrawing it, based on the	12:09:42
7	available information.	12:09:51
8	Q Okay. Any other affirmative defenses that	12:09:58
9	Beazley, as of today, is not pursuing?	12:10:04
10	A The 10th affirmative defense.	12:10:09
11	Q Okay. The 10th affirmative defense says:	12:10:13
12	Plaintiff's claims are barred in whole or in part	12:10:18
13	to the extent that plaintiff did not provide	12:10:21
14	Beazley with written notice as required by the	12:10:23
15	notices provision in the Beazley policy. Beazley	12:10:25
16	policy terminated and plaintiff's claims are	12:10:28
17	barred in whole or in part to the extent and as	12:10:31
18	soon as plaintiff acquired knowledge of the	12:10:34
19	unlawful taking of money or other fraudulent or	12:10:38
20	dishonest act committed by Sitaraman Jagannath	12:10:42
21	during the term of his employment with plaintiff.	
22	That's the defense you're not pursuing,	12:10:46
23	correct?	12:10:49
24	A Correct, based on available information.	12:10:49
25	Q Is Beazley withdrawing the 10th	12:10:56

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1 affirmative defense? 12:10:59
2 A No. 12:11:00
3 Q Is Beazley still investigating the 12:11:02
4 potential applicability of the 10th affirmative 12:11:06
5 defense? 12:11:13
6 A Well, again, it's not being pursued based 12:11:13
7 on the information that we have available, but 12:11:16
8 we're not withdrawing it at this time. 12:11:18
9 Q Does Beazley have any evidence to suggest 12:11:22
10 that International Paper gave late notice to 12:11:31
11 Beazley with respect to the employee-theft claim 12:11:37
12 that's at issue in this case? 12:11:40
13 A Well, again, that affirmative defense is 12:11:46
14 not being pursued based on the available 12:11:48
15 information at this time. 12:11:51
16 Q Is Beazley still investigating whether 12:11:55
17 that 10th affirmative defense might apply? 12:11:58
18 A It's not being pursued based on the 12:12:03
19 available information at this time. 12:12:06
20 Q And when you say "it's not being pursued," 12:12:08
21 what does that mean, given that you're not 12:12:11
22 withdrawing it? 12:12:13
23 A Well, we reserve our rights to the 12:12:17
24 potential it may apply. But at this point in 12:12:19
25 time, it's not being pursued. 12:12:22

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1	Q Not being pursued by whom?	12:12:24
2	A It's not being pursued as an affirmative	12:12:28
3	defense.	12:12:33
4	Q But you're reserving the right to assert	12:12:33
5	it at a later time by not withdrawing it; is that	12:12:36
6	correct?	12:12:40
7	A Yes, that's correct.	12:12:40
8	Q Well, do you have any evidence to support	12:12:42
9	that defense as you sit here today, that is, the	12:12:49
10	10th affirmative defense, regarding notice?	12:12:53
11	A It's not being pursued based on available	12:12:57
12	information.	12:13:00
13	Q Does that mean you don't have any	12:13:02
14	available information as you sit here today to	12:13:04
15	support the 10th affirmative defense?	12:13:06
16	A It means that we're not pursuing it based	12:13:09
17	on the information that we have at this time.	12:13:13
18	Q But you may pursue it in the future,	12:13:15
19	correct?	12:13:19
20	A If there's additional information, we may.	12:13:21
21	It's not being withdrawn at this time.	12:13:26
22	Q Okay. Any other affirmative defenses	12:13:29
23	either not being pursued and/or being withdrawn?	12:13:33
24	A Going to the next page, the -- the 12th	12:13:45
25	affirmative defense.	12:13:50

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1	Q Okay. The 12th affirmative defense says:	12:13:53
2	Plaintiff's claims are barred. To the extent	12:13:56
3	plaintiff has breached any condition precedent to	12:13:59
4	coverage under the Beazley policy, including, but	12:14:01
5	not limited, to taking any action which in any way	12:14:03
6	increases the underwriter's exposure under the	12:14:05
7	Beazley policy.	12:14:10
8	That's an affirmative defense that's not	12:14:11
9	being pursued by Beazley at this time; is that	12:14:13
10	right?	12:14:18
11	A No, sorry, that is not correct. That is	12:14:18
12	incorrect. Scratch that. Scratch that. Excuse	12:14:21
13	me.	12:14:26
14	Q Wait, so, you are maintaining the 12th	12:14:28
15	affirmative defense?	12:14:31
16	A Yes, we are.	12:14:32
17	Q Okay. Scratch that.	12:14:33
18	Was there any other affirmative defense	12:14:35
19	that Beazley is either not pursuing or	12:14:37
20	withdrawing?	12:14:41
21	A No.	12:14:42
22	Q All the rest you continue to assert may be	12:14:43
23	applicable to deny or limit coverage; is that	12:14:52
24	right?	12:14:56
25	A Correct, we are not withdrawing or not	12:14:56

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1	pursuing any others.	12:15:00
2	MR. MURPHY: Let me just interrupt, just	12:15:05
3	because I don't want the record to keep going a	12:15:08
4	certain way.	12:15:11
5	Ms. Ellis, can you just check with regard	12:15:12
6	to the 15th affirmative defense?	12:15:15
7	THE WITNESS: Hold on, I have to make this	12:15:19
8	a little bigger for my eyes.	12:15:22
9	Q The 15th affirmative defense says:	12:15:26
10	Plaintiff's claims are barred in whole or in part	12:15:27
11	by the applicable statute of limitations.	12:15:30
12	Is Beazley pursuing that affirmative	12:15:33
13	defense?	12:15:47
14	A That -- excuse me, the 15th is not being	12:15:47
15	pursued.	12:15:50
16	Q Okay. The 15th affirmative defense is not	12:15:53
17	being pursued by Beazley. That's the one relating	12:15:56
18	to the claim being barred by the statute of	12:16:00
19	limitations, correct?	12:16:02
20	A Yes, that's correct.	12:16:04
21	Q Is that affirmative defense being	12:16:04
22	withdrawn by Beazley?	12:16:08
23	A It's not being withdrawn.	12:16:09
24	Q And so Beazley reserves the right to raise	12:16:13
25	it at a later time?	12:16:17

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1 A Yes, Beazley does. Yes, Beazley does. 12:16:19
2 Q Okay. And so, underneath the 15th 12:16:22
3 affirmative defense, it says: Reservation of 12:16:29
4 rights. 12:16:32
5 It says: Beazley states it presently has 12:16:34
6 insufficient knowledge or information on which to 12:16:39
7 form a belief. As to whether it may have 12:16:41
8 additional as yet unstated affirmative defenses, 12:16:43
9 Beazley reserves all rights to file an amended 12:16:46
10 answer asserting additional defenses in the event 12:16:51
11 that discovery in this action or other 12:16:53
12 developments so warrant. 12:16:56
13 Do you see that language? 12:16:58
14 A Yes, I do. 12:16:59
15 Q So, are there any other affirmative 12:17:00
16 defenses, other than those stated here in the 12:17:02
17 answer, as you sit here today, a year later, that 12:17:04
18 Beazley is pursuing in defense of the coverage 12:17:07
19 claim by International Paper in this case? 12:17:11
20 A No, there are no additional. 12:17:17
21 MR. SYLVESTER: Okay. So, why don't we go 12:17:38
22 off the record for a minute. I see that the time 12:17:39
23 is 12:17. I did want to take a lunch break. I'm 12:17:41
24 going to be going into a new area. Does it make 12:17:46
25 sense to take that lunch break now and come back 12:17:50

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1	in a half an hour or so, or do you want to go for	12:17:54
2	a while and then take the lunch break? Do you	12:17:56
3	have any preference in that regard?	12:17:59
4	THE VIDEOGRAPHER: We are going off the	12:18:06
5	record. The time is 12:18 p.m.	12:18:09
6	(Off the record.)	12:18:13
7	Marked for identification Exhibit 7,	12:18:56
8	Beazley Insurance Company's Supplemental	12:19:56
9	Responses.)	12:18:57
10	THE VIDEOGRAPHER: We are back on the	12:19:19
11	record. The time is 12:19 p.m.	12:19:20
12	BY MR. SYLVESTER:	12:19:23
13	Q Okay. Ms. Ellis, I have put --	12:19:23
14	A Just one second. It didn't open up yet.	12:19:25
15	Okay.	12:19:31
16	All right. I have it open now, Exhibit 7.	12:19:36
17	Q Right. Hang on for one minute.	12:19:53
18	Okay. Exhibit 7 are Defendant Beazley	12:19:54
19	Insurance Company's Supplemental Responses to	12:19:56
20	Plaintiff's First Set of Interrogatories.	12:19:58
21	Are you familiar with this document,	12:20:00
22	Ms. Ellis?	12:20:02
23	A Yes.	12:20:06
24	Q And if you look at the last page of this	12:20:07
25	document, do you see that there is a verification	12:20:09

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1 signed by you, dated November 29th, 2023? 12:20:13
2 A Yes. 12:20:20
3 Q So, you signed a verification regarding 12:20:21
4 these interrogatory answers two or three weeks 12:20:28
5 ago. 12:20:32
6 Do you recall that? 12:20:32
7 A Yes. 12:20:33
8 Q And before signing, did you review the 12:20:34
9 interrogatory answers to confirm that what you 12:20:39
10 were saying in the verification was accurate? 12:20:43
11 A Yes. 12:20:46
12 Q And you said that the facts and matters 12:20:47
13 stated herein are true to the best of my 12:20:50
14 information, knowledge and belief with other 12:20:54
15 language in the verification. 12:20:56
16 Do you recall that? 12:20:57
17 A Yes. 12:20:59
18 Q And did you review these supplemental 12:21:00
19 interrogatory answers in preparation for your 12:21:05
20 deposition here today? 12:21:06
21 A Yes. 12:21:11
22 Q Okay. So, let's turn to page 4 of 12:21:12
23 Exhibit 7. Tell me when you have the fourth page. 12:21:25
24 A I have it open. 12:21:41
25 Q So, interrogatory 1 -- I'm sorry, look at 12:21:43

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1	interrogatory number 2, where International Paper,	12:21:55
2	it says: Identify all facts supporting your	12:21:59
3	denial of any of the allegations set forth in the	12:22:02
4	complaint.	12:22:06
5	Okay. And do you see in the answer the	12:22:06
6	response begins by saying: Beazley objects that	12:22:11
7	this interrogatory is premature and that it seeks	12:22:14
8	information that is still being collected and	12:22:19
9	developed through discovery, which is still in its	12:22:21
10	early stages.	12:22:24
11	Do you see that?	12:22:25
12	A Yes.	12:22:27
13	Q Now, at the time you verified this	12:22:28
14	document on November 29th, discovery was not in	12:22:32
15	its early stages, right?	12:22:35
16	It was near the ending of discovery,	12:22:38
17	correct?	12:22:41
18	A Well, discovery was still open at the	12:22:43
19	time.	12:22:47
20	Q Right. But discovery had been ongoing for	12:22:47
21	some time, and we were approaching the close of	12:22:50
22	document discovery in early December and the close	12:22:57
23	of depositions in early January, correct?	12:23:01
24	A As far as the dates?	12:23:11
25	Q Yes.	12:23:13

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1	A Yes.	12:23:14
2	Q Okay. And you realize that the trial of	12:23:16
3	this case is only about four months away, in April	12:23:19
4	of 2023, correct -- I'm sorry, 2024, do you	12:23:22
5	understand that?	12:23:26
6	A Yes.	12:23:28
7	Q Okay. Now, as of the time you signed this	12:23:29
8	verification, November 29th, 2023, Beazley had	12:23:47
9	been investigating this claim for about four	12:23:53
10	years, since first notice in late 2019; isn't that	12:23:56
11	right?	12:24:05
12	A We -- we did receive the original notice	12:24:05
13	in 2019, yes.	12:24:07
14	Q And in that four-year period between	12:24:09
15	getting the original notice in late 2019 -- I	12:24:13
16	believe the date is December 6th, if I recall	12:24:19
17	correctly. If you look at the bottom of page 7 of	12:24:24
18	this document, you'll see a statement at the	12:24:27
19	bottom of page 7 that says: On or about	12:24:34
20	December 6th, 2019, plaintiff provided notice to	12:24:38
21	Beazley of a claim resulting from potential	12:24:40
22	employee theft.	12:24:43
23	Do you see that?	12:24:44
24	A Yes, I do.	12:24:50
25	Q And since that date, Beazley has been	12:24:51

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1	requesting substantial amounts of information and	12:24:55
2	documentation from International Paper over the	12:24:57
3	past four years, correct?	12:25:00
4	A Yes, we've requested documentation from	12:25:03
5	International Paper.	12:25:05
6	Q And International Paper has provided	12:25:06
7	substantial documentation about this claim in	12:25:08
8	response to those requests, correct?	12:25:13
9	A We have received documents from	12:25:18
10	International Paper, yes.	12:25:21
11	Q Are there any specific documents that	12:25:23
12	Beazley has requested that International Paper has	12:25:26
13	refused to provide?	12:25:29
14	A Not that I recall specifically.	12:25:40
15	Q And who has been responsible for reviewing	12:25:42
16	all those hundreds of thousands of pages of	12:25:49
17	documents that International Paper has provided to	12:25:52
18	Beazley in response to Beazley's various requests,	12:25:56
19	before and after the litigation?	12:26:00
20	MR. MURPHY: Objection as to form.	12:26:03
21	You can answer.	12:26:04
22	A We have engaged experts to assist in the	12:26:09
23	document review.	12:26:14
24	Q And who specifically has been involved,	12:26:15
25	other than counsel, in reviewing documents	12:26:20

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1 produced by International Paper in response to 12:26:24
2 Beazley's request regarding this claim? 12:26:28
3 A Stoneturn. 12:26:33
4 Q Okay. Anybody else? 12:26:37
5 A And also Ms. Coates, as well. 12:26:43
6 Q Okay. And when was Stoneturn engaged to 12:26:47
7 review documents with regard to this claim? 12:26:53
8 A I don't recall the exact date of their 12:26:58
9 engagement. 12:27:00
10 Q Approximately, when were they retained? 12:27:01
11 A They were retained in 2023. 12:27:11
12 Q Okay. Earlier this year. 12:27:16
13 A And what about Ms. Coates, in what year 12:27:20
14 was Ms. Coates retained? 12:27:23
15 A Also in 2023. 12:27:26
16 Q Okay. Again, earlier this year. 12:27:29
17 A But by that point, documentation had been 12:27:32
18 provided by International Paper for several years 12:27:36
19 before that, commencing with the notice in late 12:27:40
20 2019, the proof of loss in December of 2020, and 12:27:50
21 thousands and thousands of pages of documents 12:27:56
22 produced in response to various letter requests 12:27:58
23 prior to the litigation? 12:28:03
24 A Who -- who reviewed all those documents in 12:28:04
25 that time period prior to 2023 that IP had 12:28:08

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1 provided to Beazley at Beazley's request? 12:28:12
2 A We had engaged coverage counsel. 12:28:23
3 Q And who was the coverage counsel? 12:28:26
4 A Clark Hill. 12:28:30
5 Q Were you involved in that engagement or 12:28:39
6 retention of Clark Hill? 12:28:41
7 A They were engaged on the file prior to it 12:28:44
8 being assigned to me. 12:28:48
9 Q Is that Mr. Michael Keeley's law firm that 12:28:50
10 you're referring to? 12:28:54
11 A Yes. 12:28:57
12 Q Okay. Any other law firms retained by 12:28:59
13 Beazley to review documents produced in response 12:29:06
14 to Beazley's document request to IP? 12:29:10
15 MR. MURPHY: Objection as to form. 12:29:14
16 You can answer. 12:29:16
17 A No. 12:29:22
18 Q Did you personally review any of the 12:29:23
19 documents that were produced by International 12:29:29
20 Paper pre-litigation in response to Beazley's 12:29:35
21 various letter requests? 12:29:38
22 A I did review some of the information. 12:29:46
23 Q What information did you review 12:29:49
24 specifically? 12:29:53
25 A Their loss narrative. 12:29:56

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1	Q Okay. Anything else other than the loss	12:30:00
2	narrative?	12:30:04
3	A Not that I recall specifically.	12:30:08
4	Q Now, the lawsuit was filed a little over a	12:30:12
5	year ago against Beazley for failure to provide	12:30:18
6	coverage. That was the date of the complaint that	12:30:24
7	we looked at earlier, which I believe is	12:30:27
8	November 11th, 2022.	12:30:30
9	Do you recall that?	12:30:31
10	A Yes.	12:30:33
11	Q Okay. Now, after the lawsuit was filed,	12:30:35
12	Beazley engaged new counsel to represent it in the	12:30:45
13	lawsuit, the Robinson Cole firm, correct?	12:30:51
14	A Yes, that's correct.	12:30:55
15	Q But Mr. Keeley and the Clark Hill firm had	12:30:57
16	been representing Beazley for the several years	12:31:04
17	prior to that lawsuit being filed, correct?	12:31:06
18	A Yes, that's correct.	12:31:13
19	Q Mr. Keeley and his law firm had been the	12:31:15
20	ones who had reviewed all of the information and	12:31:18
21	documentation and participated in the examination	12:31:21
22	under oath of Mr. Dowdell prior to the litigation	12:31:25
23	on behalf of Beazley; isn't that right?	12:31:30
24	MR. MURPHY: Objection as to form.	12:31:32
25	You can answer.	12:31:33

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1	A Yes.	12:31:36
2	Q And so why is it that you switched law	12:31:38
3	firms once the lawsuit was filed in November 11th,	12:31:41
4	2022, so that Clark Hill was no longer	12:31:45
5	representing Beazley and you brought in a new law	12:31:49
6	firm of Robinson Cole?	12:31:51
7	MR. MURPHY: The witness is cautioned	12:31:54
8	against disclosing any attorney-client	12:31:56
9	communications in response to that answer.	12:31:59
10	A Can you repeat the question, please?	12:32:12
11	Q Yes. Why did Beazley switch law firms and	12:32:14
12	not retain Clark Hill, who had been investigating	12:32:19
13	the claim for several years once the lawsuit was	12:32:21
14	filed and replace them with the Robinson Cole law	12:32:24
15	firm?	12:32:28
16	MR. MURPHY: Objection, as to form,	12:32:29
17	characterization of Clark Hill.	12:32:33
18	And, again, the witness is cautioned not	12:32:35
19	to disclose any attorney-client communications in	12:32:39
20	responding to the question.	12:32:44
21	A Mr. Sylvester, I'm not able to answer that	12:32:51
22	question.	12:32:54
23	Q And why are you unable to answer that	12:32:55
24	question?	12:32:58
25	A Due to attorney-client privilege.	12:32:58

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1	Q Was it your decision to switch law firms	12:33:01
2	from Mr. Keeley's law firm to the Robinson Cole	12:33:06
3	law firm once the lawsuit was filed?	12:33:10
4	A It was a decision made within the claims	12:33:16
5	reporting structure.	12:33:19
6	Q Was that a decision that you recommended?	12:33:20
7	A Again, it was a decision made within the	12:33:28
8	claims reporting structure.	12:33:31
9	Q Did you understand that by switching law	12:33:35
10	firms that a new law firm would have to get up to	12:33:38
11	speed on all of the information and documents that	12:33:42
12	had been disclosed and investigated and reviewed	12:33:46
13	by Mr. Keeley's law firm on behalf of Beazley in	12:33:50
14	the years prior to the litigation?	12:33:55
15	MR. MURPHY: Objection, form.	12:33:57
16	You can certainly answer.	12:33:59
17	A Yes.	12:34:06
18	Q Did you understand that that might cause	12:34:08
19	delays in terms of your new counsel understanding	12:34:10
20	all of the information that your previous counsel	12:34:14
21	had already developed through years of	12:34:16
22	investigation?	12:34:19
23	MR. MURPHY: Objection as to form.	12:34:21
24	You can answer.	12:34:22
25	A Can you repeat the question, please?	12:34:31

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1	Q Yes. Did you understand that that would	12:34:33
2	cause delays by switching law firms to a new law	12:34:35
3	firm that had not been previously involved from	12:34:39
4	the law firm that you had had investigating this	12:34:41
5	claim for Beazley for years prior to the lawsuit	12:34:44
6	being filed?	12:34:48
7	MR. MURPHY: Same objection. Same	12:34:50
8	objection to the characterization of the previous	12:34:52
9	firm.	12:34:54
10	You can answer as appropriate.	12:34:55
11	A Beazley would disagree that there were any	12:34:57
12	delays.	12:35:03
13	Q Were there any conflicts of interest that	12:35:06
14	Beazley and Zurich had with regard to this claim	12:35:10
15	once the lawsuit was filed?	12:35:14
16	MR. MURPHY: Objection as to perform. The	12:35:22
17	witness is free to answer, again, just being	12:35:24
18	cautioned as to disclosing any attorney-client	12:35:44
19	communications.	12:35:34
20	A Not that I'm aware of.	12:35:35
21	Q In the course of your consideration of	12:35:46
22	International Paper's claim for coverage in this	12:35:47
23	employee-theft matter (coughing) with Zurich	12:35:49
24	representatives who were also on notice, Zurich	12:35:54
25	being the insurer whose limits attached directly	12:35:57

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1	above the Beazley policy?	12:36:01
2	MR. MURPHY: Mr. Sylvester, could you	12:36:03
3	repeat that? You faded out in the middle of the	12:36:05
4	question.	12:36:08
5	MR. SYLVESTER: Sure.	12:36:08
6	Q Ms. Ellis, during the course of your	12:36:09
7	handling of this claim for employee theft, did you	12:36:12
8	have any communications with representatives of	12:36:16
9	the Zurich Insurance Company whose policy was also	12:36:20
10	put on notice and whose policy sat directly above	12:36:24
11	the limits of the Beazley policy?	12:36:29
12	A We were in email communications with	12:36:41
13	coverage counsel.	12:36:46
14	Q You were on email communications with	12:36:50
15	coverage counsel. Explain what you mean by that.	12:36:52
16	A We were both copied on various	12:36:55
17	communications with coverage counsel.	12:36:59
18	Q Well, as I understand it, prior to the	12:37:03
19	lawsuit, the Clark Hill firm was representing both	12:37:05
20	Beazley and Zurich. Is that right, in connection	12:37:10
21	with this matter?	12:37:14
22	A Yes.	12:37:15
23	Q And did you have a joint or a common	12:37:16
24	interest or some sort of joint representation	12:37:22
25	agreement with Zurich at that time?	12:37:24

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1 A Yes. 12:37:30

2 Q Aside from whatever communications you got 12:37:31

3 from common counsel, did you personally speak with 12:37:39

4 any claims professionals at Zurich about this 12:37:41

5 claim during the time prior to the litigation when 12:37:46

6 you were both on notice of the claim? 12:37:50

7 A I don't recall the date, but I believe 12:38:08

8 once. 12:38:11

9 Q What do you recall about that 12:38:14

10 communication? 12:38:17

11 A I don't -- I don't recall the specifics. 12:38:19

12 Q Well, what was the purpose of the 12:38:27

13 communication? 12:38:29

14 A I -- I don't recall. 12:38:35

15 Q Well, do you remember who you spoke to at 12:38:40

16 Zurich? 12:38:42

17 A The Zurich claim handler. 12:38:46

18 Q Do you remember the name of the Zurich 12:38:50

19 claims handler? 12:38:53

20 A Oh, my gosh, I'm having a... 12:38:55

21 Her name is escaping me at the moment. 12:39:09

22 Q But you had a conversation with her about 12:39:15

23 the claim? 12:39:17

24 A Goodness, it's -- oh, Donna Malcolm. 12:39:23

25 Q Donna Malcolm, okay. She was who you 12:39:34

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1 spoke to about the claim.

12:39:42

2 Do you recall generally when you spoke to
3 her about the claim? Was it before or after the
4 litigation started?

12:39:43

12:39:46

12:39:48

5 A I -- I don't recall if it was before or
6 after.

12:39:56

12:39:59

7 Q What generally was discussed during that
8 communication?

12:40:01

12:40:05

9 A I don't recall the specifics of -- of the
10 discussion.

12:40:09

12:40:15

11 Q Did you talk to her about whether you
12 believe there was sufficient evidence to confirm
13 that an employee theft had taken place?

12:40:16

12:40:21

12:40:24

14 A I don't recall.

12:40:28

15 Q Is that the only communication you ever
16 had with somebody at Zurich, the one time where
17 you spoke to Donna Malcolm about the claim?

12:40:30

12:40:34

12:40:36

18 A I believe she was the only person that was
19 handling the file for Zurich, that I'm aware of.

12:40:42

12:40:45

20 Q If you had such a conversation, would that
21 be in your file notes?

12:40:49

12:40:52

22 A It may.

12:41:01

23 Q Did you review your file notes? I think
24 you said you did in preparation for this
25 deposition.

12:41:04

12:41:07

12:41:09

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1 A Yes. 12:41:09
2 Q Do you recall seeing any references to 12:41:11
3 conversations with Zurich about this claim, that 12:41:13
4 is, with Zurich representatives other than 12:41:18
5 counsel? 12:41:20
6 A No. 12:41:21
7 Q Now, turn, if you would, go back to 12:41:24
8 Exhibit 7, which are the interrogatory answers 12:41:47
9 that you verified, page 8. 12:41:50
10 Let me ask you one other question -- 12:41:58
11 A I can't -- can you speak up a little bit? 12:42:05
12 I can't hear you very well. 12:42:07
13 MR. MURPHY: You did fade out again. 12:42:10
14 MR. SYLVESTER: Yeah, sorry about that. 12:42:13
15 I'm not sure why that's happening. 12:42:15
16 Q But do you remember the law firm of 12:42:27
17 Kaufman Dolowich? Does that name ring a bell? 12:42:29
18 A Yes. 12:42:35
19 Q Did that firm have some involvement in 12:42:37
20 advising Beazley with regard to this claim? 12:42:41
21 A I think at the time of the initial notice. 12:42:49
22 Q Was Kaufman Dolowich the first law firm 12:42:55
23 that was retained by Beazley to advise it with 12:42:59
24 regard to International Paper's employee-theft 12:43:02
25 claim at issue? 12:43:06

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1 A Yes. 12:43:09
2 Q And what was their role? 12:43:10
3 A They provided an initial letter and the 12:43:19
4 proof of loss form to International Paper 12:43:23
5 following the loss notice. 12:43:28
6 Q And then were they replaced at some point 12:43:33
7 by Clark Hill? 12:43:36
8 A Yes. 12:43:39
9 Q Why were they replaced? 12:43:40
10 MR. MURPHY: Once again, the witness is 12:43:47
11 just cautioned not to disclose any attorney-client 12:43:49
12 communications. 12:43:55
13 You are free to answer. 12:43:55
14 A I don't recall why they were replaced. 12:43:57
15 Q Were you on the claim at the time they 12:44:00
16 were replaced, or was this before your time? 12:44:06
17 A I was not on the file at the time. 12:44:08
18 Q Have you ever had any communications with 12:44:14
19 anybody from the Kaufman Dolowich firm as to 12:44:17
20 anything they have learned in their investigation 12:44:22
21 of the claim? 12:44:25
22 MR. MURPHY: Objection as to form. 12:44:26
23 A Not that I recall. 12:44:31
24 Q Once you got on the file in July of 2020, 12:44:33
25 did you have regular briefing about the 12:44:41

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1 investigation of the claim? And, again, I don't
2 want to know the substance. I just want to know
3 the regularity of any communications you had with
4 Clark Hill.

12:44:47

12:44:51

12:44:54

12:44:58

5 A Updates were provided.

12:44:59

6 Q And if you got an update from Clark Hill,
7 would that be reflected in your claim notes?

12:45:01

12:45:05

8 A It would have been a combination of the
9 notes and/or the file itself.

12:45:13

12:45:17

10 Q During the time that you have been
11 handling this claim since July of 2020, have you
12 had any direct communications with anybody
13 representing International Paper?

12:45:20

12:45:26

12:45:29

12:45:32

14 A No.

12:45:36

15 Q Have you had any communications prior to
16 today with any counsel for International Paper
17 with regard to this claim during the course of
18 your handling of the claim?

12:45:47

12:45:52

12:45:55

12:45:58

19 A Can you repeat the last part of that
20 question, please?

12:46:04

12:46:06

21 Q Yes. Since you've been handling this
22 claim, starting in July of 2020, have you had any
23 communications with any counsel, in-house, or
24 outside counsel for International Paper about this
25 claim?

12:46:07

12:46:10

12:46:15

12:46:17

12:46:19

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1	A No.	12:46:20
2	Q Is that unusual that you would be handling	12:46:21
3	a claim for several years from a policyholder and	12:46:27
4	not speak to anybody representing the	12:46:30
5	policyholder?	12:46:33
6	A Again, each claim is unique in its	12:46:41
7	circumstances.	12:46:46
8	Q But in the course of handling this claim	12:46:50
9	since July of 2020, you never felt a need to pick	12:46:53
10	up the phone or to email anybody at IP,	12:46:57
11	International Paper, to talk about the claim, any	12:46:59
12	concerns that you had, any issues that you were	12:47:02
13	thinking about, that never happened?	12:47:05
14	MR. MURPHY: Objection as to form.	12:47:09
15	A The communications at that time were going	12:47:18
16	through our coverage counsel.	12:47:20
17	Q The coverage counsel being who, Michael	12:47:24
18	Keeley at Clark Hill?	12:47:27
19	A Clark Hill, yes, that's correct.	12:47:29
20	Q And why were they going through coverage	12:47:32
21	counsel? Why were you not directly speaking to	12:47:35
22	your policyholder representative, somebody from	12:47:38
23	IP?	12:47:42
24	MR. MURPHY: Objection as to form.	12:47:43
25	A Again, at that time, we had communications	12:47:50

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1 that were going through our -- our coverage 12:47:53
2 counsel. 12:47:55

3 Q Was that your decision, not to speak 12:47:58
4 directly with IP, but to have all communications 12:48:02
5 go through counsel? 12:48:05

6 MR. MURPHY: Objection as to form. 12:48:06

7 You can answer. 12:48:07

8 A That was the continued route of 12:48:17
9 communication, was through coverage counsel on 12:48:20
10 this -- for this particular matter. 12:48:25

11 Q When you say "the continued route of 12:48:27
12 communication," what do you mean by that? 12:48:29

13 A Meaning that the initial communications 12:48:35
14 were from Kaufman Dolowich, and then subsequently 12:48:40
15 through Clark Hill, when they were assigned as 12:48:48
16 coverage counsel replacing Kaufman Dolowich. 12:48:52

17 Q In other employee-dishonesty claims that 12:48:57
18 you've handled for Beazley, have you had direct 12:49:02
19 communications with the policyholder 12:49:05
20 representatives rather than going through lawyers? 12:49:07

21 A Yes. 12:49:15

22 Q So, why did you have a different 12:49:18
23 arrangement such that your communication with 12:49:22
24 International Paper would only go through lawyers 12:49:26
25 on this matter, even before the lawsuit was filed? 12:49:28

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1 MR. MURPHY: Objection as to form. 12:49:31

2 A That was the decision by claims management 12:49:46

3 at the time. 12:49:50

4 Q And when you say "by claims management," 12:49:53

5 who specifically are you referring to? 12:49:56

6 A As far as the continuation? 12:50:03

7 Q No, who made the original decision that 12:50:07

8 all communications with International Paper on 12:50:10

9 this claim would go through lawyers as opposed to 12:50:12

10 speaking to International Paper representatives 12:50:16

11 directly? 12:50:17

12 MR. MURPHY: Objection, form, calls for 12:50:18

13 speculation. 12:50:21

14 You can answer. 12:50:22

15 A That was the decision at the time of the 12:50:26

16 loss notice. 12:50:29

17 Q And do you know who made that decision? 12:50:31

18 A Angela Lee. 12:50:37

19 Q Angela Lee. Is Ms. Lee still with 12:50:40

20 Beazley? 12:50:46

21 Does she still work for Beazley? 12:50:47

22 A No. 12:50:48

23 Q Where does she work, do you know? 12:50:49

24 A I don't know where she's employed offhand. 12:50:52

25 Q And your predecessor, Antonio Trotta, you 12:50:56

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1 said he left the company in July of 2020. 12:51:02
2 Do you know where he's located? 12:51:05
3 A I -- I don't know his employer offhand. 12:51:08
4 Q Do you know if he's still in the New York 12:51:10
5 area? 12:51:13
6 A I don't know his address. 12:51:16
7 Q Well, in preparing for this deposition, 12:51:23
8 you did not speak to either Antonio Trotta or 12:51:28
9 Angela Lee, correct? 12:51:34
10 A No. 12:51:36
11 Q Did you speak to any lawyers at Kaufman 12:51:37
12 Dolowich in preparation for this deposition? 12:51:41
13 A No. 12:51:48
14 Q Did you speak to any lawyers at Clark 12:51:49
15 Hill, including Mr. Keeley, in preparation for 12:51:52
16 this deposition? 12:51:55
17 A No. 12:51:57
18 Q Did you speak to any lawyers other than 12:51:59
19 Mr. Murphy or others at his law firm, Robinson 12:52:02
20 Cole, in preparation for this deposition? 12:52:06
21 A No. 12:52:08
22 Q Have you spoken to in-house counsel at 12:52:11
23 Beazley in preparation for this deposition? 12:52:13
24 A No. 12:52:20
25 MR. SYLVESTER: Okay. I see that's 12:52. 12:52:24

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1 I think we had agreed this would be about the
2 stopping time for lunch. I would suggest about 40
3 minutes, if that works for everybody.

12:52:27

12:52:30

12:52:34

4 THE VIDEOGRAPHER: We are going off the
5 record. The time is 12:52 p.m.

12:52:38

12:52:39

6 (Off the record.)

12:52:42

7 THE VIDEOGRAPHER: We are back on the
8 record. The time is 1:47 p.m.

13:47:35

13:47:37

9 BY MR. SYLVESTER:

13:47:40

10 Q Ms. Ellis, before the lunch break, we were
11 discussing whether you had had any direct
12 communications with International Paper. And I
13 believe you said no, that all Beazley
14 communications took place through outside counsel.

13:47:44

13:47:48

13:47:50

13:47:54

15 Let me ask whether you have, during the
16 course of investigating this claim, had any
17 communications directly with Jag, the employee
18 whose theft is alleged by International Paper?

13:47:59

13:48:02

13:48:06

13:48:16

19 A No.

13:48:13

20 Q Have you ever spoken to any representative
21 of Jag?

13:48:17

13:48:20

22 A No.

13:48:21

23 Q I'm sorry, did you say no?

13:48:22

24 A Correct, I said no. Sorry, I was
25 adjusting my headset.

13:48:24

13:48:32

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1	Q	No problem.	13:48:33
2		Did you have any communications with	13:48:34
3		anyone -- well, did you have any communications	13:48:35
4		with Shiv, the brother of Jag?	13:48:38
5	A	No.	13:48:40
6	Q	Did you have any communications with any	13:48:41
7		representative of Shiv, the brother of Jag?	13:48:45
8	A	No.	13:48:48
9	Q	Did you have any communications with	13:48:49
10		anybody who worked or purported to work for DGS?	13:48:53
11	A	No.	13:48:59
12	Q	Did you have any communications with	13:49:00
13		anybody who purported to work for Mid-South	13:49:02
14		Diversity, the other entity that is the subject of	13:49:06
15		this claim?	13:49:08
16	A	No.	13:49:10
17	Q	Do you know whether any Beazley	13:49:12
18		representative had communications directly with	13:49:19
19		Jag?	13:49:22
20	A	Directly with Jag?	13:49:30
21	Q	Yes.	13:49:33
22	A	No.	13:49:34
23	Q	Did any representatives of Beazley have	13:49:35
24		any communications directly with Shiv?	13:49:39
25	A	No.	13:49:44

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1 Q Did any representative of Beazley have 13:49:45
2 communications with any representative of Jag? 13:49:50
3 A Yes. 13:49:54
4 Q And what were those communications? 13:49:55
5 A What were those communications? 13:50:00
6 Q Yes. 13:50:02
7 A I -- there were a few phone calls, I 13:50:04
8 believe some emails and one -- I believe one 13:50:12
9 in-person meeting. 13:50:18
10 Q And who participated in those 13:50:22
11 communications on either side? 13:50:25
12 A Clark Hill and the representatives for Jag 13:50:30
13 and Shiv. 13:50:39
14 Q And who were the representatives for Jag 13:50:41
15 and Shiv that you're referring to? 13:50:44
16 A Their attorneys. 13:50:47
17 Q And what did you learn from those 13:50:50
18 communications between Clark Hill lawyers 13:50:56
19 representing Beazley and lawyers for Jag and Shiv? 13:51:00
20 A I don't recall the exact details of those 13:51:13
21 communications. 13:51:18
22 Q Well, what generally do you recall about 13:51:19
23 those communications? 13:51:21
24 A I think there was some discussion about -- 13:51:29
25 I think a counterclaim that was filed against 13:51:41

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1	International Paper.	13:51:46
2	Q Okay. What else do you recall, or did you	13:51:50
3	learn that's relevant to your investigation of	13:51:53
4	IP's claim?	13:51:59
5	A I can't recall any other specifics from	13:52:04
6	those communication.	13:52:12
7	Q Now, you said you believe there were	13:52:13
8	several calls and an in-person meeting; is that	13:52:15
9	right?	13:52:19
10	A Yes.	13:52:19
11	Q Did you authorize your counsel to meet	13:52:23
12	with representatives of Jag and Shiv?	13:52:26
13	A They were authorized to meet with them.	13:52:31
14	Q Do you understand that International Paper	13:52:35
15	was not informed about those meetings that were	13:52:37
16	going to take place between Beazley	13:52:40
17	representatives and representatives of Jag and	13:52:44
18	Shiv?	13:52:47
19	A Yes.	13:52:48
20	Q Why did you keep it secret from	13:53:00
21	International Paper that your lawyers were meeting	13:53:02
22	with Jag's and Shiv's lawyers?	13:53:06
23	MR. MURPHY: Objection as to form.	13:53:08
24	You can answer.	13:53:10
25	A We were performing our claim	13:53:13

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1 investigation. 13:53:16

2 Q And you didn't believe it was appropriate 13:53:20

3 to let International Paper know that you were 13:53:26

4 meeting with their former employee that was the 13:53:30

5 subject of the employee-theft claim? That was the 13:53:33

6 conscious decision of Beazley not to inform 13:53:36

7 International Paper; is that correct? 13:53:39

8 MR. MURPHY: Objection as to form. 13:53:40

9 A Again, we were performing a claim 13:53:46

10 investigation. 13:53:49

11 Q And you determined on behalf of Beazley 13:53:52

12 not to inform International Paper that this 13:53:55

13 meeting was going to take place or to allow them 13:53:57

14 to participate; is that right? 13:54:01

15 MR. MURPHY: Same objection. 13:54:02

16 A Again, we were performing a claim 13:54:06

17 investigation. 13:54:09

18 Q And you didn't think it was required to 13:54:11

19 let International Paper, your policyholder, know 13:54:14

20 that you were meeting with representatives of the 13:54:19

21 employees or former employees who were accused of 13:54:21

22 theft so that they could have the benefit of 13:54:26

23 whatever information was obtained; is that right? 13:54:29

24 MR. MURPHY: Objection as to form, asked 13:54:32

25 and answered. 13:54:36

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1 A Again, Beazley was conducting a claim 13:54:36
2 investigation. 13:54:39

3 Q Is that how you typically conduct 13:54:42
4 employee-theft investigations, you meet secretly 13:54:48
5 with the accused employee, or former employee, 13:54:51
6 without letting the policyholder know that you 13:54:54
7 are doing so? 13:54:57

8 MR. MURPHY: Objection to form, calls for 13:54:57
9 speculation, not fact specific. 13:55:01

10 You can answer, if you know. 13:55:04

11 A Again, as stated previously, it was part 13:55:14
12 of our claim investigation. We were investigating 13:55:16
13 the claim at that time. 13:55:18

14 Q Don't you think International Paper would 13:55:19
15 want to know what you learned from that meeting? 13:55:22

16 MR. MURPHY: Objection as to form, calls 13:55:25
17 for speculation. 13:55:26

18 A Again, as stated previously, we were in 13:55:41
19 the process of conducting a claim investigation. 13:55:44

20 Q Why didn't you tell International Paper 13:55:46
21 after the meeting, after the secret meeting, why 13:55:49
22 didn't you tell International Paper what you had 13:55:52
23 learned from Jag and Shiv to get their response or 13:55:55
24 reaction to it? 13:55:58

25 MR. MURPHY: Objection as to form. 13:56:01

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1 A We were still performing a claim 13:56:04
2 investigation at that time. 13:56:06

3 Q Well, if Jag and Shiv were telling you 13:56:08
4 something, wasn't it incumbent upon Beazley to at 13:56:12
5 least inform International Paper what they had 13:56:16
6 told you so that you could get International 13:56:19
7 Paper's response to those statements made by Jag 13:56:21
8 and Shiv during the secret meeting? 13:56:29

9 MR. MURPHY: Objection as to form, beyond 13:56:30
10 the scope. 13:56:32

11 A Again, we were in the process of 13:56:37
12 performing and conducting a claim investigation. 13:56:40

13 Q So, before this secret meeting, you didn't 13:56:45
14 let International Paper know that it was going to 13:56:48
15 take place, and after the secret meeting, you 13:56:51
16 didn't tell International Paper what you learned 13:56:53
17 from that meeting; isn't that right? 13:56:55

18 MR. MURPHY: Objection as to form, 13:56:57
19 compound, repeated question. 13:56:59

20 A As stated previously, we were in the 13:57:07
21 process of conducting a claim investigation. 13:57:09

22 Q My question is, isn't it correct that both 13:57:14
23 before the secret meeting and after the secret 13:57:17
24 meeting you did not inform International Paper 13:57:20
25 about the meeting? 13:57:23

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1 MR. MURPHY: Objection as to form, asked 13:57:26
2 and answered. 13:57:33

3 A Again, we were performing a claim 13:57:33
4 investigation. 13:57:35

5 Q But you felt no obligation to tell 13:57:38
6 International Paper what your investigation had 13:57:41
7 learned from your meetings with Jag and Shiv; 13:57:43
8 isn't that right? 13:57:49

9 MR. MURPHY: Same objection. 13:57:49

10 A We were performing a claim investigation 13:58:06
11 and still obtaining information from International 13:58:06
12 Paper, as well. 13:58:07

13 Q Why didn't you tell International Paper 13:58:07
14 what you had learned from the meeting with Jag and 13:58:09
15 Shiv that they were not informed about, nor 13:58:12
16 invited to participate in? 13:58:15

17 MR. MURPHY: Observation as to form, 13:58:18
18 compound. 13:58:20

19 A Again, as stated previously, we were in 13:58:23
20 the middle of a claim investigation. 13:58:27

21 Q Did Jag and Shiv give you any information 13:58:34
22 during that meeting that Beazley believes 13:58:40
23 exculpates them (coughing)... 13:58:44

24 A We provided summaries of those 13:58:50
25 communications. 13:58:52

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1	Q	What's that?	13:58:57
2	A	We provided summaries of those	13:58:58
3		communications.	13:59:00
4	Q	The first time that International Paper	13:59:01
5		ever learned about the secret meeting was in	13:59:04
6		discovery in this litigation, correct?	13:59:07
7	MR. MURPHY:	Objection as to form.	13:59:09
8	Q	That's when you provided the claim notes	13:59:11
9		that referenced it; isn't that right?	13:59:14
10	A	I don't recall if that's the first time.	13:59:18
11	Q	Well, do you recall ever telling anybody	13:59:21
12		at IP about the secret meeting, other than	13:59:25
13		producing documents in discovery in this	13:59:30
14		litigation, including your claim notes that	13:59:32
15		referenced that meeting?	13:59:36
16	MR. MURPHY:	Observation as to form.	13:59:38
17	A	I -- I don't recall if they were advised	13:59:43
18		previously.	13:59:46
19	Q	Let me ask our tech, Harold, here if he	13:59:48
20		would please, (coughing) 18, which are your claim	13:59:53
21		notes, Ms. Ellis.	13:59:56
22		(Marked for identification Exhibit 18,	13:59:58
23		claim notes.)	13:59:56
24	Q	Do you see those in the chat box? Can you	14:00:10
25		open those up?	14:00:21

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1 A Exhibit 18? 14:00:22

2 Q Yes. Do you have that open? Can you turn 14:00:24

3 to page 16 of the PDF, Bates numbered 00301? Tell 14:00:54

4 me when you have that open. 14:01:10

5 A Okay. I have it open. 14:01:12

6 Q See you have a note dated October 12th, 14:01:13

7 2021, at 5:31 p.m. 14:01:17

8 Is that your note that you entered into 14:01:19

9 the claim notes file? 14:01:21

10 Do you see that? 14:01:22

11 A Yes, I do. 14:01:28

12 Q Under the second blacked out part of that 14:01:29

13 note, it says: We have advised the insured that 14:01:33

14 it's the insured's burden to prove its claim. To 14:01:37

15 date, the insured's presentation has attempted to 14:01:41

16 place Beazley in the position to determine the 14:01:42

17 insured's loss and what records would support the 14:01:44

18 same. A response letter to the insured is also 14:01:47

19 being drafted. 14:01:54

20 And then it says, after an asterisk: 14:01:55

21 During the June 2021 meeting/call with the 14:01:59

22 principal, Jagannath, he alleged that IP had 14:02:02

23 similar diversity agreements with other companies. 14:02:06

24 Jagannath alleged IP used the services of a 14:02:10

25 company called Buckman for chemical services. It 14:02:13

1 is alleged that when Buckman was requested to 14:02:15
2 provide Diversity Suppliers, the granddaughter of 14:02:18
3 the founder, Kathy Buckman Gibson, started an 14:02:25
4 entity called KBG Technologies. 14:02:26

5 If you keep reading to the next page. 14:02:29

6 Which was certified as a woman-owned 14:02:31
7 business. Jagannath reported that KBG was set up 14:02:35
8 in a similar manner to act as a passthrough entity 14:02:40
9 to meet the Diversity Supplier requirements of IP
10 customers, Coca Cola and P&G. 14:02:44

11 Jagannath has also alleged that other 14:02:44
12 senior managers were aware of the arrangement with 14:02:49
13 Mid-South and DGS and sign off on the same. 14:02:53
14 Jagannath advised that he did not have the 14:02:55
15 authority to enter into contracts or agreements on 14:02:57
16 behalf of IP during his employment. 14:02:59

17 Then there is a blacked-out portion. 14:03:02

18 And it says: Jagannath provided photos of 14:03:04
19 his former manager and his brother at a family 14:03:07
20 function for Jagannath to prove the same knew they 14:03:11
21 were related. 14:03:14

22 Next steps, response letter to the 14:03:14
23 insured, deeper dive of the records provided by 14:03:17
24 the insured. 14:03:20

That's your note about a meeting or

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1	communication with Jagannath in June of 2021,	14:03:24
2	correct?	14:03:29
3	A Yes.	14:03:29
4	Q And by the way, the claim note says that	14:03:39
5	the meeting was with Jagannath.	14:03:41
6	It doesn't say his lawyers. It says	14:03:44
7	Jagannath.	14:03:48
8	Were you referring to his lawyers there,	14:03:48
9	or did, in fact -- does this refresh your	14:03:50
10	recollection that your folks that Beazley lawyers	14:03:52
11	met with Jagannath himself?	14:03:55
12	A I don't recall if it was Jagannath	14:04:04
13	directly or his attorneys, but I believe it was	14:04:07
14	with his attorneys. I think that was included in	14:04:10
15	some of the documents that were provided, as well.	14:04:13
16	Q At the end of this claim note that I just	14:04:17
17	read on page 17, under the blacked-out part, it	14:04:21
18	says: Jagannath provided photos of his former	14:04:25
19	manager and his brother at a family function for	14:04:28
20	Jagannath.	14:04:31
21	We have asked for those photos to be	14:04:32
22	produced and we have not received any such photos,	14:04:36
23	does Beazley have these photos that Jagannath or	14:04:39
24	his representative was referring to in your claim	14:04:42
25	note?	14:04:45

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1 A No. 14:04:47
2 Q Have you ever seen those photos? 14:04:49
3 A I don't recall if I saw the photos. 14:04:55
4 Q Well, you wrote this in your claim note. 14:05:03
5 Where did you get that information? 14:05:07
6 A From an update provided by Clark Hill. 14:05:14
7 Q Did they provide you with copies of the 14:05:20
8 photos that were allegedly showing Jag and his 14:05:22
9 brother at a family function with the former 14:05:26
10 manager? 14:05:30
11 A I don't recall. 14:05:30
12 Q Does Beazley believe Jag when he said that 14:05:34
13 his brother and his former manager knew that they 14:05:39
14 were related? 14:05:41
15 A It was alleged. 14:05:51
16 Q Right. Well, what has your investigation 14:05:52
17 concluded? Does Beazley believe that any of 14:05:56
18 Jagannath's supervisors knew and approved of Jag 14:06:00
19 doing business with his brother's companies, DGS 14:06:04
20 and Mid-South, knowing that they were controlled 14:06:08
21 by Jag's brother? 14:06:12
22 A Well, at this point, our claim 14:06:15
23 investigation hasn't come to a final conclusion. 14:06:17
24 Q You mean as of today, you still don't have 14:06:23
25 a final conclusion on that information that was 14:06:25

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1	provided back in June of 2021?	14:06:29
2	A We haven't concluded the claim	14:06:34
3	investigation at this point. It's still ongoing.	14:06:37
4	Q My review of the claim notes makes	14:06:45
5	reference to this meeting in June of 2021. That's	14:06:47
6	the meeting between your counsel and at least	14:06:51
7	Jag's counsel that was not disclosed to	14:06:56
8	International Paper beforehand, right? That's the	14:07:01
9	meeting we're talking about?	14:07:03
10	MR. MURPHY: Objection as to form.	14:07:05
11	A Yes, we're talking about the June meeting	14:07:12
12	from 2021.	14:07:15
13	Q And that's the same meeting that after the	14:07:17
14	meeting took place, Beazley did not inform	14:07:19
15	International Paper about the information that you	14:07:24
16	received from Jag or his lawyers at this meeting,	14:07:30
17	correct?	14:07:33
18	MR. MURPHY: Objection as to form, asked	14:07:38
19	and answered.	14:07:44
20	A We were conducting our claim	14:07:44
21	investigation.	14:07:46
22	Q The first time you disclosed the existence	14:07:48
23	of this meeting to International Paper was in	14:07:51
24	(coughing) copies of claim notes in response to	14:07:57
25	our discovery request in this lawsuit, correct?	14:08:00

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1 A I don't recall if that was the first time. 14:08:04

2 Q Do you recall any time prior that you or 14:08:07

3 anybody at Beazley ever informed International 14:08:13

4 Paper that you had had this secret meeting with 14:08:15

5 Jag's representatives in June of 2021? 14:08:18

6 MR. MURPHY: Objection as to form. 14:08:21

7 A I don't recall if that was the first time 14:08:25

8 the insured was aware of the meeting with Jag and 14:08:31

9 Shiv. 14:08:35

10 Q Prior to the litigation, you didn't give 14:08:36

11 International Paper any opportunity to respond to 14:08:39

12 these statements by Jag because you didn't tell 14:08:41

13 them about the meeting with Jag that you had had 14:08:45

14 your lawyers conduct; isn't that right? 14:08:48

15 MR. MURPHY: Objection as to form. 14:08:50

16 A Well, again, we were performing our claim 14:08:54

17 investigation at that time. 14:08:57

18 Q And in performing your claim 14:09:01

19 investigation, you didn't feel it was necessary to 14:09:03

20 inform International Paper that you had had a 14:09:06

21 secret meeting with Jag and that this is what he 14:09:10

22 told you to give International Paper an 14:09:12

23 opportunity to respond; is that right? 14:09:14

24 MR. MURPHY: Objection as to form, asked 14:09:17

25 and answered. 14:09:26

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1 A Again, as stated previously, we were still 14:09:26
2 performing a claim investigation during that time 14:09:30
3 period. 14:09:33

4 Q Right. And in performing an 14:09:34
5 investigation, don't you think it would have been 14:09:36
6 fair to inform International Paper what Jag's 14:09:39
7 representatives had told you to give them an 14:09:42
8 opportunity to respond? 14:09:45

9 MR. MURPHY: Same objection. 14:09:48

10 A Again, we were performing our claim 14:09:53
11 investigation during that time period. 14:09:56

12 Q I know that. You've already said that 14:10:02
13 several times. 14:10:05

14 My question is different: Didn't you 14:10:05
15 think you owed it to your policyholder, 14:10:08
16 International Paper, to tell them what you had 14:10:10
17 learned in the secret meeting so that they could 14:10:12
18 respond and enhance your investigation with their 14:10:15
19 side of the story? 14:10:18

20 MR. MURPHY: Objection as to form, asked 14:10:20
21 and answered several times, as many times as it's 14:10:23
22 been asked. 14:10:27

23 You can answer once again. 14:10:29

24 A As stated, we were performing our claim 14:10:31
25 investigation at this time. 14:10:33

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1 Q So you felt no obligation to tell 14:10:36
2 International Paper what you had learned from your 14:10:39
3 meeting with Jag to give them an opportunity to 14:10:42
4 respond -- 14:10:45

5 MR. MURPHY: Same objection. 14:10:46

6 Q -- isn't that right? 14:10:47

7 MR. MURPHY: Same objection. 14:10:48

8 A We were performing a claim investigation, 14:10:53
9 along with seeking coverage counsel. 14:10:58

10 Q You mentioned earlier in your testimony 14:11:05
11 that there were a few phone calls and emails with 14:11:07
12 Jag or Jag's representatives. 14:11:12

13 This is one meeting that's referenced in 14:11:15
14 your claim notes. I didn't see any other meetings 14:11:18
15 or calls, but tell me, were there other meetings 14:11:22
16 or calls between Beazley's representatives and Jag 14:11:25
17 or Shiv's representatives, other than this June 14:11:33
18 2021 meeting? 14:11:36

19 A Let me just refer to the documents. 14:11:38

20 Q What documents do you refer to? 14:11:54

21 A We provided a response on that. It's in 14:11:56
22 the second set of interrogatories on page 5. 14:12:01

23 Q Okay. This is Exhibit 7? On page 5 of 14:12:05
24 Exhibit 7, the supplemental responses to 14:12:16
25 plaintiff's interrogatories, is that what 14:12:19

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1 you're -- 14:12:21
2 A Responses to -- Defendant Beazley 14:12:21
3 Insurance Company Responses to Plaintiff's Second 14:12:24
4 Set of Interrogatories. 14:12:28
5 Q Oh, second set of interrogatories. 14:12:28
6 A Yeah. 14:12:30
7 Q Okay. Can you read those into the record? 14:12:31
8 A It's a seven-page document. 14:12:33
9 Q No, the part of it that you say is 14:12:37
10 responsive to my question. 14:12:39
11 A There were -- let's see here. There were 14:12:50
12 also four telephone calls between counsel for 14:12:56
13 Beazley and counsel for Mr. Jagannath and 14:12:58
14 Mr. Kumar on June 16th, 2021. Caralisa Connell 14:13:03
15 and Howard Mannis discussed -- and that's his -- 14:13:12
16 their -- their attorney -- discussed counsel's 14:13:18
17 representation of insured as related to their 14:13:21
18 investigation of IP's claim for coverage. 14:13:24
19 Q Are you reading from something, Ms. Ellis? 14:13:30
20 A Yes. Defendant Beazley Insurance 14:13:32
21 Company's Responses to Plead to Second Set of 14:13:35
22 Interrogatories. 14:13:38
23 Q And do you have those in hard copy in 14:13:40
24 front of you? 14:13:42
25 A Yes. 14:13:44

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1 Q Earlier in the deposition when I asked you 14:13:48
2 if you had any documents in front of you that you 14:13:50
3 would make reference to, I believe you said no. 14:13:54
4 Was that statement incorrect? 14:13:58

5 Do you, in fact, have documents that 14:14:00
6 are -- 14:14:01

7 MR. MURPHY: Objection as to -- excuse me, 14:14:01
8 please finish your question. 14:14:04

9 Q Do you wish to correct your testimony from 14:14:07
10 earlier? 14:14:10

11 MR. MURPHY: Objection as to form, 14:14:11
12 mischaracterizes testimony. 14:14:13

13 You can respond. 14:14:14

14 A Well, this is a document that's part of 14:14:17
15 the case, so it's just something for reference and 14:14:20
16 it responded to your question. 14:14:24

17 Q Right. That's why I asked whether you 14:14:27
18 brought any documents with you to help provide a 14:14:30
19 reference to respond to any of my questions. And 14:14:33
20 I thought your answer previously was that, no, you 14:14:36
21 had not. But now you're referring to a document. 14:14:39

22 Have you had that document with you since 14:14:41
23 the beginning of the deposition? 14:14:44

24 MR. MURPHY: Objection as to form, 14:14:47
25 multiple questions, compound, mischaracterizes 14:14:49

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1 testimony. 14:14:51

2 A It was in -- it was part of something else 14:15:00

3 that was here, but, yes. 14:15:01

4 Q Do you have any other documents with you 14:15:09

5 for reference other than Beazley's responses to 14:15:13

6 International's second set of interrogatories? 14:15:19

7 A No, but I think I referred to that in the 14:15:23

8 beginning when you were asking me -- 14:15:27

9 Q -- document, is that right, other than one 14:15:35

10 set of answers to the second set of 14:15:37

11 interrogatories? That's the only document you 14:15:39

12 have in front of you for reference; is that right? 14:15:41

13 MR. MURPHY: Objection, asked and 14:15:43

14 answered. 14:15:45

15 A And I would also reference the claim 14:15:45

16 notes, as well. 14:15:47

17 Q Oh, you have a copy of the claim notes in 14:15:49

18 front of you? 14:15:51

19 A Yeah, I'm pretty sure I said that in the 14:15:52

20 very beginning. 14:15:56

21 Q Yeah, I don't recall that. 14:15:57

22 Do you have anything else other than the 14:15:58

23 claim notes and the responses to the second set of 14:16:00

24 interrogatories? 14:16:03

25 A No. 14:16:05

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1 Q So, you mentioned multiple telephone calls 14:16:06
2 with your counsel and Jag's representatives, and 14:16:20
3 you mentioned what I call the secret meeting on 14:16:24
4 June of 2021. 14:16:28

5 Is it correct that, prior to this lawsuit, 14:16:33
6 Beazley never informed International Paper that it 14:16:37
7 was having these communications with Jag and Shiv 14:16:43
8 representatives and never informed them of the 14:16:48
9 substance of those communications? 14:16:52

10 MR. MURPHY: Objection as to form, asked 14:16:54
11 and answered. 14:17:00

12 A I don't recall if that was relayed 14:17:00
13 previously. 14:17:05

14 Q Well, is there any evidence in your claim 14:17:06
15 notes that you reported this information to your 14:17:08
16 policyholder, International Paper, after you 14:17:11
17 received it from Jag and Shiv's representatives? 14:17:13

18 A Can you repeat the question, please? 14:17:20

19 Q Do you have any evidence that you reported 14:17:24
20 any of this information you learned on (technical 14:17:26
21 difficulty) meetings with Jag and Shiv to 14:17:29
22 International Paper prior to this litigation? 14:17:32

23 A I don't recall. 14:17:37

24 Q And is that common practice for Beazley, 14:17:38
25 when you're doing an investigation of an employee 14:17:52

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1 Q Okay. So, this is a document, Exhibit 19,
2 that was produced from Beazley's files. It has a
3 Beazley production number.

14:19:38

14:19:46

14:19:49

4 Do you see that at the bottom of the first
5 page?

14:19:50

14:19:52

6 A Yes.

14:19:54

7 Q This was in Beazley's file, this
8 counterclaim, the draft counterclaim, I should
9 say.

14:19:56

14:20:00

14:20:04

10 Do you see it?

14:20:04

11 A I do.

14:20:05

12 Q So, when Beazley got this, did you provide
13 it to International Paper?

14:20:07

14:20:11

14 A No.

14:20:17

15 Q Why not?

14:20:19

16 A Of this -- of the -- why we didn't provide
17 a copy of this document?

14:20:35

14:20:38

18 Q Correct. If Jag said he was going to file
19 against International Paper this counterclaim in
20 the civil action that International Paper had
21 brought against him and his brother and their
22 companies, why did you not inform International
23 Paper that you had gotten a copy of this and give
24 it over to International Paper so that they, your
25 policyholder, International Paper, could be

14:20:40

14:20:46

14:20:49

14:20:52

14:20:56

14:20:59

14:21:02

14:21:04

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1 prepared for it and respond to it? 14:21:07

2 A Well, Beazley was performing a claim 14:21:12
3 investigation at that time. 14:21:14

4 Q I understand that. But if you learned 14:21:20
5 something that would be of interest to your 14:21:23
6 policyholder, such as the responses that Jag had 14:21:25
7 to their claim of theft, didn't you owe it to your 14:21:30
8 policyholder to provide them, that is, 14:21:35
9 International Paper, your policyholder, with this 14:21:37
10 information so that they could respond to it? 14:21:41

11 MR. MURPHY: Objection, overbroad, asked 14:21:45
12 and answered. 14:22:00

13 A Again, we were still investigating the 14:22:00
14 claim at this time. And we were still awaiting 14:22:02
15 documents from the insured, as well. 14:22:08

16 Q I understand that you were still 14:22:13
17 investigating, but when you got this important 14:22:15
18 document about a threatened counterclaim against 14:22:18
19 your policyholder, International Paper, from the 14:22:21
20 former employee who is accused of theft, why 14:22:27
21 didn't you provide a copy of this to International 14:22:31
22 Paper so that they could be aware of it and even 14:22:35
23 respond to all of the allegations in here? 14:22:38

24 MR. MURPHY: Objection, compound, asked 14:22:42
25 and answered. 14:22:48

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1 A A draft was not provided to International 14:22:50
2 Paper. 14:22:58

3 Q Was not provided to International Paper by 14:22:58
4 Beazley; isn't that right? 14:23:01

5 A Yes, that's correct. 14:23:03

6 Q And was that your decision not to give it 14:23:05
7 to them, not to show it to them? 14:23:08

8 A Well, it was a draft. 14:23:12

9 Q That's right. At the top of the first 14:23:15
10 page, it says: Privileged and confidential 14:23:18
11 settlement communications. 14:23:24

12 Do you see that? 14:23:25

13 A I do. 14:23:31

14 Q And this was provided to Beazley and 14:23:32
15 produced out of Beazley's files, right? 14:23:35

16 A Yes. 14:23:43

17 Q And it was provided to Beazley by lawyers 14:23:44
18 for Jag and Shiv, correct? 14:23:50

19 A Yes. 14:23:56

20 Q And it's characterized at the top as 14:23:59
21 privileged and confidential settlement 14:24:01
22 communications. 14:24:03

23 Was Beazley having any settlement 14:24:04
24 communications with Jag and Shiv and their 14:24:06
25 lawyers? 14:24:10

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1	MR. MURPHY: Objection to the form of the	14:24:12
2	question.	14:24:14
3	You can answer.	14:24:14
4	A No.	14:24:17
5	Q Did Beazley have any discussions with Jag	14:24:20
6	and Shiv about trying to resolve the claim for	14:24:23
7	coverage through some sort of three-party deal,	14:24:31
8	that is, between International Paper, Beazley and	14:24:35
9	the accused?	14:24:39
10	A No.	14:24:42
11	Q Why did they call it a settlement	14:24:45
12	communication when they gave it to you?	14:24:47
13	MR. MURPHY: Object as to form, calls for	14:24:50
14	speculation.	14:24:54
15	A I don't know why they titled -- gave it	14:24:56
16	that title.	14:24:58
17	Q This draft counterclaim has over 60 pages	14:25:00
18	of information, with Jag's side of the story, so	14:25:04
19	to speak, correct?	14:25:10
20	MR. MURPHY: Objection as to form.	14:25:12
21	A It is 62 pages, yes.	14:25:14
22	Q Have you read it? Did you read it when	14:25:17
23	you obtained a copy of it?	14:25:20
24	A I did read it.	14:25:24
25	Q Do you believe it?	14:25:26

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1 A Believe what specifically? 14:25:38

2 Q Do you believe what he's saying in here as 14:25:42

3 to why there was no theft and that he's an 14:25:45

4 innocent man? 14:25:49

5 MR. MURPHY: Objection, compound, 14:25:51

6 overbroad. 14:25:53

7 A Well, he makes various statements within 14:25:58

8 the document. 14:26:02

9 Q Right. And he contradicts International 14:26:06

10 Paper's contention that he was stealing from the 14:26:10

11 company with his business arrangement with his 14:26:12

12 brother and DGS and Mid-South, doesn't he? 14:26:15

13 A In portions, yes. 14:26:23

14 Q And do you believe him? Do you believe 14:26:25

15 he's innocent of employee theft, based on what 14:26:28

16 you've read in this draft and/or anything else 14:26:32

17 that you've seen? 14:26:34

18 MR. MURPHY: Objection as to form, 14:26:36

19 overbroad. 14:26:37

20 A Well, I do know the criminal matter was 14:26:41

21 dismissed. 14:26:45

22 Q Right. And as we talked about, criminal 14:26:49

23 conviction is not necessary for employee theft 14:26:52

24 under the policy. 14:26:55

25 So, my question is, do you believe him? 14:26:56

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1	Do you believe Jag --	14:26:59
2	MR. MURPHY: Objection as to form,	14:27:02
3	argumentative.	14:27:04
4	MR. SYLVESTER: Let me finish the	
5	question.	14:27:06
6	Q Do you believe Jag when he's saying that	14:27:06
7	he didn't steal from the company, that he was just	14:27:09
8	acting in the ordinary course of business?	14:27:13
9	A I'm not in a position to make a	14:27:18
10	determination on the veracity of his statements.	14:27:20
11	Q When will you be in a position to make a	14:27:33
12	determination on the veracity of his statements in	14:27:37
13	this draft counterclaim, or anywhere else?	14:27:40
14	A Again, I'm not in a position to make a	14:27:57
15	determination on the veracity of his statements.	14:27:59
16	Q So, you haven't reached a judgment one way	14:28:06
17	or another about whether he is a thief or not a	14:28:08
18	thief, as employee theft is defined under the	14:28:26
19	Beazley policy?	14:28:17
20	MR. MURPHY: Objection as to form, asked	14:28:18
21	and answered multiple times.	14:28:23
22	A As stated previously, we are still	14:28:27
23	conducting our evaluation of this matter under the	14:28:30
24	insurance policy.	14:28:35
25	Q Do you recall Beazley being offered by	14:28:37

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1 International Paper the opportunity to take
2 control of the subrogation action against Jag and
3 Shiv early on after the claim was noticed?

14:28:40

14:28:44

14:28:51

4 A Well, Beazley wouldn't have been in a
5 position to take control of a subrogation action
6 while we were still in the process of evaluating
7 the claim allegations under the policy.

14:28:59

14:29:01

14:29:06

14:29:12

8 Q Okay. Let me rephrase the question.

14:29:15

9 Do you recall early on after the claim was
10 noticed to Beazley that International offered that
11 Beazley could pursue Jag and Shiv and take control
12 of that litigation against them in an effort to
13 try to recoup monies that may have been stolen
14 through this employee-theft scheme?

14:29:19

14:29:22

14:29:25

14:29:29

14:29:33

14:29:37

15 A Well, again, Beazley would not have been
16 in a position to take control of or direct the
17 civil action because we had no rights of
18 subrogation at that point.

14:29:41

14:29:46

14:29:52

14:29:55

19 Q You only have rights of subrogation after
20 you pay money on the claim; is that right?

14:29:57

14:30:00

21 A Yes, pursuant to the policy.

14:30:03

22 Q Prior to providing coverage payments to
23 International Paper, Beazley is not entitled to
24 control any claim for recoupment against the
25 employee thief; is that right?

14:30:08

14:30:14

14:30:19

14:30:26

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1 MR. MURPHY: Objection, form, to the 14:30:27
2 extent it calls for a legal conclusion. 14:30:28
3 You can answer. 14:30:30
4 A Can you repeat the question, please? I 14:30:31
5 heard -- 14:30:34
6 Q It's only after Beazley makes coverage 14:30:35
7 payments to its policyholder, International Paper, 14:30:37
8 that it would have the right or ability to pursue 14:30:41
9 Jag or Shiv, or any other person or entity to try 14:30:49
10 to recoup the payments of coverage that were made; 14:30:54
11 isn't that right? 14:30:59
12 MR. MURPHY: Same objection. 14:30:59
13 A Yes. 14:31:03
14 Q Do you recall nonetheless being offered 14:31:06
15 the opportunity early on by International Paper 14:31:08
16 that Beazley could take the lead in pursuing Jag 14:31:13
17 and Shiv? 14:31:18
18 A Again, Beazley was not in any position at 14:31:22
19 that point to take over or to direct a subrogation 14:31:26
20 action on this matter. 14:31:32
21 Q I understand. Sorry. That's not my 14:31:35
22 question. 14:31:37
23 My question is, regardless of what your 14:31:37
24 response is, do you recall that International 14:31:40
25 Paper offered to Beazley, that Beazley could take 14:31:43

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1 control of the pursuit of Jag and Shiv, if it so 14:31:48
2 desired? Putting aside what your response would 14:31:53
3 have been, but do you recall at least that offer 14:31:55
4 being made by International Paper early on after 14:31:58
5 the claim was noticed? 14:32:00

6 A I -- I don't recall exactly, but we would 14:32:04
7 not have been able to do so. 14:32:18

8 Q Okay. So, if you had been asked by 14:32:15
9 International Paper, that would have been 14:32:22
10 Beazley's response, that you would not take over 14:32:24
11 pursuit of Jag and Shiv unless and until you 14:32:28
12 determined that there was coverage under the 14:32:32
13 policy and paid money in coverage under the 14:32:34
14 policy; is that right? 14:32:38

15 A Yes. 14:32:41

16 Q Did anybody from Beazley have any 14:32:43
17 communications with the Department of Justice, 14:32:46
18 U.S. Attorney's Office or the FBI regarding 14:32:51
19 International Paper's employee-theft claim? 14:32:54

20 A No. 14:33:00

21 Q And by that, I mean your lawyers, as well 14:33:01
22 as anybody working for Beazley. Did any of your 14:33:05
23 outside counsel on this matter have any 14:33:09
24 communications with the Department of Justice, 14:33:12
25 U.S. Attorney's Office or the FBI? 14:33:15

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1 A No, not that I recall. 14:33:19
2 Q Can you go back to Exhibit 7, which is the 14:33:22
3 Beazley supplemental responses to the first set of 14:33:33
4 interrogatories that were propounded -- 14:33:37
5 A Could they be posted in the chat again? I 14:33:42
6 think maybe -- well, actually -- oh, you know, I 14:33:44
7 saved it, right? Hold on, let me see here. 14:33:46
8 Q It should still be -- 14:33:49
9 A Is it still in the chat? 14:33:51
10 Q It's in mine, Exhibit 7, although -- 14:33:55
11 A Well, I -- I closed out of the meeting. 14:33:56
12 Let me see. Thank you. I see it. 14:33:59
13 Q Oh, I guess you put it back in. 14:34:02
14 A Okay. Exhibit 7, I have it open. 14:34:06
15 Q Okay. Let's see, go to page 8 of this 14:34:13
16 document. 14:34:22
17 A Okay. I have it open. 14:34:25
18 Q These are the interrogatory answers that 14:34:28
19 you verified back on November 29th, 2023. We were 14:34:29
20 looking at them before lunch. And you'll see at 14:34:33
21 the top paragraph, at the end of the top paragraph 14:34:39
22 on page 8, the last sentence says: Plaintiff 14:34:42
23 claims that Dowdell -- referring to Doug 14:34:47
24 Dowdell -- discovered certain alleged 14:34:52
25 irregularities with respect to plaintiff's 14:34:55

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1 dealings with two diversity specialty chemical 14:34:57
2 suppliers: Diversified Global Sourcing, DGS, and 14:34:59
3 Mid-South Diversity Group, Mid-South. 14:35:03
4 Do you see that? 14:35:05
5 A Yes, I see that sentence. 14:35:07
6 Q And, again, in this deposition, when we 14:35:11
7 refer to "DGS," we're talking about the entity 14:35:15
8 Diversified Global Sourcing. That was a diverse 14:35:18
9 supplier with which Jag was doing business on 14:35:22
10 behalf of International Paper, right? 14:35:27
11 Do you understand that's what DGS stands 14:35:29
12 for? 14:35:32
13 A Yes. 14:35:32
14 Q And do you understand that Mid-South is 14:35:32
15 shorthand for Mid-South Diversity Group, again, 14:35:36
16 another diverse supplier that Jag was doing 14:35:41
17 business with on behalf of International Paper? 14:35:43
18 A Yes. 14:35:45
19 Q You understand that IP has alleged that 14:35:47
20 both DGS and Mid-South were entities that were 14:35:51
21 controlled by Jag's brother, Shiv Kumar? 14:35:56
22 A Yes. 14:36:01
23 Q And do you agree that those entities were, 14:36:01
24 in fact, based on your investigation, entities 14:36:06
25 that were controlled by Shiv Kumar, or Shiv as we 14:36:10

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1 call him for short? 14:36:14
2 A That's what's been alleged, yes. 14:36:16
3 Q Well, have you been able to confirm that 14:36:19
4 in your investigation? 14:36:21
5 A Well, our investigation is still ongoing 14:36:25
6 at this time. 14:36:29
7 Q You mean you haven't reached a conclusion 14:36:29
8 on that fact as to whether Shiv controls DGS and 14:36:31
9 Mid-South? 14:36:37
10 MR. MURPHY: Objection, asked and answered 14:36:38
11 earlier in the deposition. 14:36:40
12 A As stated previously, the matter is still 14:36:47
13 under investigation. 14:36:49
14 Q Let's go back to Exhibit 17, which is the 14:36:53
15 settlement agreement. 14:36:57
16 Do you have that? Is that in your chat 14:36:59
17 box, or does that need to be reposted? 14:37:05
18 A That one I still had open. Let me... I 14:37:08
19 have it open, the six-page settlement agreement. 14:37:16
20 Q Yep. 14:37:19
21 Okay. Can you go to the page 4 of that 14:37:20
22 settlement agreement, paragraph 24? 14:37:28
23 Do you have it? 14:37:42
24 A Yes. 14:37:46
25 Q Paragraph 24 at the bottom of page 4, the 14:37:47

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1 first sentence says: Each of the undersigned 14:37:49
2 represents and warrants that he/she is fully 14:37:53
3 authorized to execute this agreement on behalf of 14:37:56
4 his/her respective party. 14:37:59

5 Do you see that? 14:38:03

6 A Yes, I see that sentence. 14:38:04

7 Q Okay. And it says: Each party represents 14:38:05
8 and warrants that it's authorized to enter into 14:38:08
9 this settlement agreement, that the execution and 14:38:11
10 delivery of this agreement will not conflict with 14:38:13
11 or result in any violation or default under any 14:38:15
12 provision of its articles of incorporations, 14:38:18
13 charters, bylaw, partnership or other agreement or 14:38:22
14 of any decree, statute, law, ordinance, rule or 14:38:25
15 regulation applicable to it, and that no further 14:38:29
16 consent, approval, order, authorization or filing 14:38:33
17 with any entity, governmental or otherwise, is 14:38:36
18 required in connection with the execution and 14:38:39
19 delivery of this agreement or the consummation of 14:38:41
20 the actions described in this agreement. 14:38:44

21 Do you see that? 14:38:46

22 A Yes. 14:38:47

23 Q Okay. And then scroll down. 14:38:47

24 Do you see there's a signature block for 14:38:51
25 Diversified Global Sourcing, Inc., DGS? Do you 14:38:53

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1 see that? 14:38:58
2 A Yes, I so. 14:38:58
3 Q Who is signing on behalf of DGS? 14:39:00
4 MR. MURPHY: Object -- note my objection 14:39:09
5 to form. 14:39:11
6 You can answer. 14:39:11
7 A It says Shiv Kumar. 14:39:14
8 Q Right. So, Shiv Kumar signed on behalf of 14:39:18
9 DGS. 14:39:22
10 And then look below that, do you see a 14:39:23
11 signature block for Mid-South Diversity Group? 14:39:26
12 Who signed on behalf of Mid-South? 14:39:29
13 MR. MURPHY: Objection as to form. 14:39:32
14 A It's -- it says Shiv Kumar. 14:39:37
15 Q Okay. So -- 14:39:42
16 (Indiscernible crosstalk.) 14:39:44
17 Q Right. So, in this settlement agreement, 14:39:46
18 Shiv is not only signing for himself, but he is 14:39:49
19 signing for DGS and Mid-South, right? 14:39:52
20 MR. MURPHY: Objection as to form. 14:39:55
21 A He's -- his name is on the signature page, 14:40:04
22 yes. 14:40:06
23 Q And in light of that, are you saying that 14:40:06
24 Beazley still hasn't determined whether Shiv Kumar 14:40:09
25 controls Mid-South and DGS, the two entities that 14:40:13

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1 are the subject of IP's employee-theft scheme? 14:40:19

2 MR. MURPHY: Objection as to form, asked 14:40:25
3 and answered. 14:40:31

4 A Again, as indicated previously, we're 14:40:31
5 still investigating this matter. 14:40:36

6 Q Right. But even though you're still 14:40:41
7 investigating the coverage claim, there still 14:40:58
8 could be certain facts that you've reached a 14:40:47
9 conclusion on, even if you're examining other 14:40:50
10 facts in the claim, right? 14:40:52

11 A Potentially. 14:40:59

12 Q Okay. Well, will you acknowledge that one 14:41:00
13 of the facts that has been established is that 14:41:03
14 Shiv Kumar controlled DGS and Mid-South? 14:41:05

15 MR. MURPHY: Objection as to form, asked 14:41:10
16 and answered. 14:41:24

17 A I'm not really in a position to give an 14:41:24
18 affirmative statement on that. 14:41:28

19 Q Are you doing some other investigation 14:41:30
20 that's ongoing about the corporate structure or 14:41:32
21 control for those two entities, such that you're 14:41:36
22 not able to reach a conclusion that Shiv controls 14:41:42
23 DGS and Mid-South? 14:41:45

24 MR. MURPHY: Objection to form. 14:41:47

25 A At this time, we have -- we're still 14:41:52

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1 evaluating the claim in its totality and we have 14:41:54
2 not concluded our investigation. 14:41:58

3 Q I understand that, but are you 14:42:00
4 investigating the question of whether Shiv 14:42:02
5 controls Mid-South and/or DGS? 14:42:04

6 Are you currently investigating that? And 14:42:10
7 if so, how? 14:42:12

8 MR. MURPHY: Objection as to form, 14:42:14
9 multiple questions. 14:42:16

10 A We have not made a final determination on 14:42:22
11 that yet, on that item. 14:42:25

12 Q Well, what items -- 14:42:28

13 A As I stated, we're still investigating and 14:42:29
14 evaluating the claim that's been alleged under the 14:42:31
15 policy. 14:42:35

16 Q Well, what aspects of IP's claim for this 14:42:35
17 employee-theft scheme have you made a 14:42:39
18 determination on? Not the entire claim. I 14:42:42
19 understand you said that you haven't made a final 14:42:45
20 decision. But what aspects of the claim have you 14:43:03
21 reached a conclusion on after four years of 14:42:51
22 investigation? 14:42:56

23 MR. MURPHY: Objection, overbroad. 14:42:57

24 A Again, we're still evaluating the claim 14:43:04
25 and the materials that have been provided thus far 14:43:09

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1 from the insured. We have not made a final 14:43:14
2 determination with regards to an 14:43:17
3 employee-dishonesty matter under the policy. 14:43:24

4 Q So, you can't say as you sit here today 14:43:26
5 that you at least would acknowledge that Shiv 14:43:29
6 controls DGS; is that right? 14:43:33

7 MR. MURPHY: Objection as to form, and 14:43:37
8 asked and answered. 14:43:39

9 A As previously stated, we have not made a 14:43:45
10 final determination on this claim matter. 14:43:48

11 Q And as you sit here today, four years into 14:43:50
12 the investigation, you cannot acknowledge that 14:43:52
13 Shiv Kumar controlled Mid-South Diversity Group; 14:43:57
14 is that right? 14:44:02

15 MR. MURPHY: Objection as to form, asked 14:44:02
16 and answered. 14:44:06

17 A Again, we're still investigating this 14:44:06
18 matter and we have not made a final determination 14:44:12
19 on that item. 14:44:15

20 Q If you look at the paragraph, the last 14:44:16
21 full paragraph on page 8 of Exhibit 7, the 14:44:20
22 paragraph that starts with the statement: IP 14:44:23
23 Specialty Chemicals Group provided chemicals to 14:44:28
24 the IP mills to operate the mills and provide 14:44:30
25 certain -- 14:44:35

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1	A I'm sorry, which -- which page are you on?	14:44:35
2	Q Page 8 of Exhibit 7, the same page we were	14:44:38
3	just looking at, the last full paragraph at the	14:44:40
4	bottom, that starts with the phrase "IP Specialty	14:44:45
5	Chemicals Group."	14:44:51
6	Do you see that?	14:44:51
7	A Yes, I do.	14:44:52
8	Q Go to the last sentence of that paragraph,	14:44:53
9	it says -- I'm sorry, the second to the last	14:44:56
10	paragraph. It says: Thus, it was impossible for	14:45:01
11	IP to contract with diverse companies to	14:45:04
12	manufacture the chemicals required by the	14:45:09
13	Specialty Chemicals Group. As a result, IP	14:45:11
14	entered into other arrangements with diverse or	14:45:14
15	minority-owned businesses to meet the goals of its	14:45:17
16	diversity supplier program and the requirements of	14:45:20
17	its customers.	14:45:23
18	Do you see that?	14:45:24
19	A I do.	14:45:25
20	Q What requirements of what customers are	14:45:26
21	you referring to in this answer by Beazley?	14:45:29
22	A Which customers? Can you repeat the	14:45:50
23	question, again?	14:45:56
24	Q Yes. Beazley is saying in your verified	14:45:58
25	interrogatory answers that: IP entered into	14:46:01

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1	arrangements with diverse or minority-owned	14:46:05
2	businesses to meet the goals of its diversity	14:46:09
3	supplier program and the requirements of its	14:46:13
4	customers.	14:46:15
5	Do you see that sentence in your answer?	14:46:16
6	A Yes.	14:46:18
7	Q What are the requirements of International	14:46:18
8	Paper's customers that you're referring to there?	14:46:22
9	A For International Paper to have a diverse	14:46:25
10	meaning women and/or minority-owned businesses	14:46:38
11	within its supply chain.	14:46:42
12	Q And you aware that the only requirements	14:46:46
13	in any customer contract were reporting	14:46:51
14	requirements, not actual requirements for any	14:46:53
15	level of diversity spending, are you aware of	14:46:56
16	that?	14:47:00
17	MR. MURPHY: Objection as to form.	14:47:00
18	A I don't recall that specifically.	14:47:15
19	Q Are you aware of any customer of	14:47:17
20	International Paper that required that	14:47:20
21	International Paper do business with DGS?	14:47:22
22	A I don't recall that specifically.	14:47:33
23	Q Are you aware of any customer of	14:47:35
24	International Paper that required that	14:47:38
25	International Paper do business with Mid-South?	14:47:41

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1	A I don't -- I don't recall that	14:47:54
2	specifically.	14:47:55
3	Q Isn't it true that International Paper	14:47:56
4	could have not done business with DGS and	14:48:01
5	Mid-South and still fulfilled its contractual	14:48:05
6	requirements with its customers?	14:48:09
7	A Could you repeat the question again,	14:48:17
8	please?	14:48:32
9	Q There was no customer who mandated that	14:48:20
10	International Paper spend money with DGS; isn't	14:48:23
11	that right?	14:48:29
12	A Not that I recall.	14:48:29
13	Q And there is no customer of International	14:48:33
14	Paper that mandated that as part of its contract	14:48:35
15	with IP, that IP had to do business with	14:48:37
16	Mid-South; isn't that right?	14:48:41
17	A Not that I recall.	14:48:43
18	Q At the bottom of page 8, in the partial	14:48:47
19	paragraph at the bottom, it says: As part of its	14:49:00
20	operations, plaintiff utilized diverse or	14:49:05
21	minority-owned businesses. Plaintiff's supplier	14:49:07
22	diversity program was established in 1985.	14:49:10
23	Do you see that?	14:49:13
24	A Yes, I do.	14:49:14
25	Q The next sentence carries over to the next	14:49:16

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1 page. It says: According to plaintiffs, Global 14:49:19
2 Sourcing policy and procedure manual, effective 14:49:23
3 March 1, 2019, the purpose of International 14:49:26
4 Paper's supplier diversity program is to promote 14:49:29
5 growth and development of diverse businesses. The 14:49:33
6 company will source its goods and services 14:49:36
7 requirements on a competitive basis to obtain the 14:49:38
8 greatest value in terms of quality, cost and 14:49:41
9 service. 14:49:44

10 Do you see that language? 14:49:44

11 A Yes, I do. 14:49:48

12 Q Do you understand that that was, in fact, 14:49:49
13 a purpose of International's diversity supplier 14:49:53
14 program, to source its goods and requirements on a 14:49:58
15 competitive basis to attain the greatest value in 14:50:02
16 terms of quality, cost and service? 14:50:06

17 A I see that sentence. 14:50:13

18 Q And that was part of the diversity 14:50:15
19 program. In addition to promoting the growth and 14:50:18
20 development of diverse businesses, the company was 14:50:21
21 directing its purchasing agents to source goods 14:50:25
22 and services on a competitive basis to attain the 14:50:28
23 greatest value in terms of quality, cost and 14:50:31
24 service; isn't that right? 14:50:35

25 A Can you repeat the questions again, 14:50:43

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1	please?	14:50:47
2	Q Right. Would you agree that as part of	14:50:48
3	International Paper's Global Sourcing policy and	14:50:51
4	procedural manual, it stated that the purpose of	14:50:55
5	International's supplier diversity program was not	14:51:00
6	only to promote the growth and development of	14:51:03
7	diverse businesses, but to source its goods and	14:51:05
8	services requirements on a competitive basis to	14:51:08
9	attain the greatest value in terms of quality,	14:51:12
10	cost and service?	14:51:15
11	A Yes, I do see that section on page 9.	14:51:37
12	Q And you understand that International's	14:51:41
13	supplier diversity program did not allow for	14:51:46
14	spending money on diverse suppliers just to say	14:51:51
15	that they were spending money on diverse	14:51:54
16	suppliers, that those diverse suppliers had to	14:51:57
17	provide the greatest value in terms of quality,	14:52:00
18	cost and service; isn't that right?	14:52:04
19	MR. MURPHY: Objection as to form.	14:52:06
20	A I do see that section, yes, the quoted	14:52:12
21	section.	14:52:18
22	Q Right. But I was asking, beyond that	14:52:19
23	quoted section, you understand that the supplier	14:52:22
24	diversity program of International did not provide	14:52:27
25	that purchasing agents were to give money to	14:52:31

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1 diverse suppliers just because they were diverse, 14:52:34
2 but, rather, they also had to meet the 14:52:37
3 characteristics of providing the greatest value to 14:52:44
4 IP in terms of quality, cost and service? 14:52:48

5 MR. MURPHY: Objection as to form. 14:52:53

6 A I mean, I do understand what that means, 14:52:58
7 yes. 14:53:02

8 Q Okay. So, that means IP was not seeking 14:53:03
9 to spend money on diversity suppliers, like DGS or 14:53:11
10 Mid-South, unless they were giving the greatest 14:53:16
11 quality, cost and service in return; isn't that 14:53:19
12 right? 14:53:21

13 MR. MURPHY: Objection as to form. 14:53:21

14 A Can you repeat the question, again, 14:53:24
15 please? 14:53:29

16 Q Right. International Paper was not 14:53:29
17 looking to spend money with DGS or Mid-South 14:53:31
18 unless they were providing a greatest value in 14:53:37
19 terms of quality, cost and service; isn't that 14:53:40
20 right? 14:53:44

21 MR. MURPHY: Same objection. 14:53:44

22 A I'm just referring to the document on the 14:53:51
23 screen again. 14:53:53

24 Okay. Yes, it did come from their -- the 14:54:15
25 insured's manual. 14:54:19

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1 Q Okay. Now, look at the next paragraph on 14:54:20
2 page 9 of this Exhibit 7. It starts by saying -- 14:54:22
3 and, again, this is Beazley talking in its 14:54:26
4 interrogatory answer. Beazley says, quote: IP 14:54:29
5 received significant benefits from doing business 14:54:32
6 with diverse or minority-owned businesses, 14:54:35
7 including DGS and Mid-South, regardless of the 14:54:38
8 goods or services provided by those companies. 14:54:41

9 So, my question to you is, what were those 14:54:44
10 significant benefits that IP received from DGS and 14:54:47
11 Mid-South that Beazley is referring to in these 14:54:51
12 answers? 14:54:54

13 A Can you repeat that question, please? 14:55:07
14 Q Yes. In this paragraph on page 9 of 14:55:09
15 Exhibit 7, Beazley is saying that IP receives 14:55:12
16 significant benefits from doing business with 14:55:16
17 diverse or minority-owned businesses, including 14:55:18
18 DGS and Mid-South, regardless of the goods or 14:55:22
19 services provided by those companies. 14:55:26

20 My question to you is, what significant 14:55:27
21 benefits did IP get from doing business with DGS 14:55:30
22 and Mid-South as referenced in Beazley's answer 14:55:33
23 here? 14:55:37

24 A Well, I would refer to the actual response 14:55:44
25 where it makes reference to tax benefits, among 14:55:49

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1 other reasons. 14:55:54
2 Q Okay. Let's talk about tax benefits. 14:55:56
3 What tax benefits is Beazley contending 14:55:58
4 that International received as a result of doing 14:56:05
5 business with DGS and Mid-South? 14:56:07
6 A We're still investigating that. 14:56:16
7 Q Well, were you aware that International 14:56:20
8 Paper has stated in discovery responses and in 14:56:24
9 testimony that there is no tax benefit that it 14:56:29
10 obtained from doing business with DGS around 14:56:31
11 Mid-South? 14:56:36
12 Are you aware of that fact? 14:56:36
13 MR. MURPHY: Ms. Ellis, did you hear the 14:56:41
14 entire question that time? 14:56:43
15 THE WITNESS: Yes, I did. 14:56:48
16 MR. MURPHY: Okay. You can respond. 14:56:50
17 A We're still looking at that particular 14:57:04
18 item. 14:57:06
19 Q Well, what are you looking at? 14:57:06
20 International has already said it didn't get any 14:57:09
21 tax benefits from doing business with DGS or 14:57:12
22 Mid-South. Do you not believe International Paper 14:57:15
23 when it says that? 14:57:18
24 A Well, they did make reference to -- other 14:57:31
25 piece here, it says: On average, the supplier 14:57:42

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1 diversity program was a benefit to International 14:57:45
2 Paper. 14:57:52

3 Q You're quoting something about diversity 14:57:52
4 supplier programs in general. 14:57:57

5 I'm talking about DGS and Mid-South. 14:58:00

6 Isn't it the case that International Paper 14:58:06
7 did not receive any tax benefits from doing 14:58:08
8 business with DGS or Mid-South during the relevant 14:58:12
9 period of loss, which is 2011 to 2019; isn't that 14:58:16
10 right? 14:58:27

11 A I don't recall on that particular item. 14:58:27

12 Q Well, as you sit here today, having 14:58:31
13 investigated this issue for four years, does 14:58:34
14 Beazley have any evidence to suggest that 14:58:36
15 International Paper got some tax benefit from 14:58:41
16 doing business with DGS and Mid-South? 14:58:42

17 A I don't recall that specific item. 14:58:53

18 Q So, as you sit here today, you can't 14:58:58
19 identify any tax benefit that International Paper 14:59:01
20 received from doing business with DGS or 14:59:04
21 Mid-South; is that correct? 14:59:09

22 A I don't recall specifically on that 14:59:12
23 particular item. 14:59:14

24 Q Well, is Beazley withdrawing its statement 14:59:20
25 that International Paper received some tax benefit 14:59:25

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1 from doing business with DGS and Mid-South? 14:59:29

2 A We're continuing our investigation at this 14:59:37
3 point. 14:59:41

4 Q What tax investigation is Beazley 14:59:41
5 currently doing to determine whether International 14:59:44
6 Paper has gotten some tax benefit from doing 14:59:50
7 business with DGS and Mid-South, even though 14:59:52
8 International Paper has provided sworn discovery 14:59:56
9 responses that it has not received such benefits? 14:59:59

10 A Well, I'm referring to the overall 15:00:05
11 investigation is still ongoing. 15:00:08

12 Q Right. But what specifically in the 15:00:11
13 investigation is investigating that point such 15:00:14
14 that you won't concede that IP is telling the 15:00:17
15 truth whenever it tells you that it did not 15:00:22
16 receive tax benefits from doing business with DGS 15:00:25
17 and Mid-South? 15:00:29

18 A I don't recall on that particular item. 15:00:41

19 MR. SYLVESTER: Okay. Why don't we take a 15:00:46
20 short break. We've been going for about an hour 15:00:48
21 and 15 minutes. Come back in 10 minutes? 15:00:50

22 THE VIDEOGRAPHER: We are going off the 15:00:53
23 record. The time is 3:00 p.m. 15:00:55

24 (Off the record.) 15:00:56

25 THE VIDEOGRAPHER: We are back on the 15:12:27

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1 record. The time is 3:12 p.m. 15:12:28
2 BY MR. SYLVESTER:
3 Q Ms. Ellis, I put before you what we've 15:12:31
4 marked as Exhibit 22. 15:12:34
5 (Marked for identification Exhibit 22, 15:12:36
6 Beazley Insurance Company's Responses to 15:12:39
7 Plaintiff's Second Set of Interrogatories.) 15:12:42
8 Q And it's entitled: Defendant Beazley 15:12:37
9 Insurance Company's Responses to Plaintiff's 15:12:39
10 Second Set of Interrogatories. 15:12:42
11 Do you have those before you? 15:12:43
12 A Yes, I do. 15:12:46
13 Q And I believe you were referring to these 15:12:47
14 as a document that you had in hard copy there at 15:12:51
15 your desk when we were discussing meetings and 15:12:55
16 communications between Beazley and representatives 15:12:59
17 of Jag and Shiv. 15:13:02
18 Do you recall that discussion we had? 15:13:04
19 A Yes. 15:13:07
20 Q So, if you would, turn to the page 5 of 15:13:08
21 this document, page numbered 5 of Exhibit 22, and 15:13:13
22 specifically the paragraph that begins discussing 15:13:19
23 the different telephone calls that Beazley 15:13:24
24 representatives had with representatives of Jag 15:13:29
25 and Shiv. 15:13:38

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1 Do you have that paragraph on page 5? 15:13:38

2 There were also four telephone calls? 15:13:41

3 A Yes, I see that paragraph. 15:13:45

4 Q Okay. So, each one of these phone calls 15:13:49

5 took place, it looks like, in 2021. The first one 15:13:51

6 on June 16th, 2021, Caralisa Connell, who is at 15:13:57

7 the Clark Hill firm, and Howard Mannis, which is 15:14:05

8 counsel for one of the defendants then, Jag, had a 15:14:08

9 phone conversation. 15:14:14

10 And then secondly, on June 21, 2021, 15:14:15

11 Ms. Connell and Michael Keeley of the Clark Hill 15:14:21

12 firm, as well as Delaney Beier of the Clark Hill 15:14:25

13 firm, spoke again with Mr. Mannis about this 15:14:30

14 claim. 15:14:32

15 And then the third call is listed at 15:14:33

16 July 20th, 2021, where Mr. Keeley and Ms. Caralisa 15:14:37

17 Connell spoke with Mr. Mannis again and other 15:14:48

18 lawyers for Jag and Shiv regarding a July 13th 15:14:49

19 meeting and additional requests for information. 15:14:52

20 And then on September 29th, 2021, 15:14:54

21 Ms. Connell and Mr. Mannis discussed the insured's 15:14:59

22 investigation of IP's claim and settlement 15:15:04

23 discussions relating to IP's claims against 15:15:07

24 Mr. Jag and Mr. Kumar. 15:15:11

25 Do you see those references to those 15:15:12

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1 telephone conversations between your counsel and 15:15:16
2 counsel for Jag and Shiv? 15:15:18

3 A Yes, I do. 15:15:21

4 Q None of those telephone calls were 15:15:22
5 revealed to International Paper at or about the 15:15:28
6 time those calls were taking place, right? 15:15:30

7 A Not to my knowledge. 15:15:34

8 Q And then it says there was a meeting on 15:15:35
9 July 13th, 2021, in Memphis with respect to dates, 15:15:40
10 methods and contents -- oh, I'm sorry. Strike 15:15:45
11 that.

12 It says that -- but there was a meeting on 15:15:49
13 July 13th in Memphis in which Beazley's coverage 15:15:52
14 counsel, Mr. Keeley and Ms. Connell from Clark 15:15:56
15 Hill, and Mr. Jagannath's attorneys, Mr. Mannis 15:16:00
16 and Mr. Simpson, and Mr. Kumar's attorney, 15:16:04
17 Mr. Ballin, all attended that meeting, right? 15:16:08

18 A Yes. 15:16:13

19 Q And, again, the contents of that meeting 15:16:14
20 were not revealed to International Paper at the 15:16:17
21 time the meeting took place, right? 15:16:21

22 A Not to my knowledge. 15:16:23

23 Q And if you go back to your notes in your 15:16:24
24 claim notes on Exhibit 18, page numbered 18, you 15:16:35
25 make reference to at least the meeting. 15:16:39

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1 Tell me when you have gotten there. It's 15:16:44
2 the page numbered 18 at the bottom, which is Bates 15:16:48
3 number ending in 303. You have a note of August 15:16:57
4 5th, 2021, at 3:44 p.m. 15:17:00
5 Do you see that? 15:17:02
6 A Yes. 15:17:03
7 Q Okay. And your prior note, by the way, is 15:17:06
8 in February of 2021. 15:17:08
9 So, when these calls are taking place in 15:17:10
10 June of 2021, and the meeting in July of 2021, you 15:17:20
11 didn't enter a note until August 5th of 2021; is 15:17:23
12 that right?
13 There is nothing in between February 10th, 15:17:27
14 2021, and August 5th, 2021, correct? 15:17:29
15 A In the notes, correct. 15:17:35
16 Q And so, is your first internal note about 15:17:36
17 these communications taking place unknown to 15:17:47
18 International Paper between Beazley's counsel and 15:18:05
19 Jag and Shiv's counsel, that first reference in 15:17:52
20 your note is August 5th, 2021; is that right? 15:17:55
21 MR. MURPHY: Objection as to form. 15:17:58
22 You can answer. 15:17:59
23 A From my note? 15:18:11
24 Q Yes. Is that your first note talking 15:18:12
25 about all of these communications between your 15:18:14

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1 counsel and Jag and Shiv's counsel unbeknownst to 15:18:16
2 International Paper? 15:18:20

3 MR. MURPHY: Objection as to form. 15:18:21

4 You can answer. 15:18:23

5 A That's the first note entry that I made. 15:18:26

6 Q Okay. And by the way, just for chronology 15:18:30
7 purposes, I see the February 2021 note is listed 15:18:43
8 by Antonio Trotta, and then you're listing a note 15:18:47
9 August 5th of 2021, right? 15:18:52

10 A Yes, that's the date of the note. 15:18:55

11 Q And if you go to the next page, it shows 15:18:58
12 you entering a note in September of 2020, and 15:19:03
13 obviously this -- these claim file notes go in 15:19:10
14 reverse chronological order. So, you entered a 15:19:13
15 note September 2, 2020. And then it shows notes 15:19:20
16 from Antonio Trotta from November of 2020, through 15:19:25
17 February of 2021. 15:19:30

18 Is that a period when he had taken over 15:19:32
19 responsibility for the claim, from you, and then 15:19:37
20 it was given back to you sometime between February 15:19:40
21 and August of 2021? 15:19:43

22 A Yes, that's correct. 15:19:47

23 Q Does that refresh your recollection as to 15:19:48
24 when specifically you took over for Mr. Trotta, 15:19:51
25 the second time when he left the company? 15:19:56

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1 Do you remember when in 2021 that 15:20:01
2 occurred? 15:20:03

3 A Well, as stated previously, it was either 15:20:04
4 July or August of 2021. I don't have the exact 15:20:08
5 date, but that was the time period of when he 15:20:13
6 left, approximately. 15:20:16

7 Q Okay. So, in your August 5th, 2021, note, 15:20:18
8 halfway through it, after you say that the insured 15:20:24
9 has submitted 130,000 documents for review to 15:20:29
10 date, you said, quote: We have meet -- I think 15:20:33
11 you meant "met" -- with the principal and his 15:20:36
12 attorney June 2021. 15:20:40

13 Now, I think you testified earlier that's 15:20:41
14 a mistake. There was no meeting with Jag himself, 15:20:44
15 just his attorneys; is that correct? 15:20:48

16 MR. MURPHY: Objection as to form. 15:20:49

17 You can answer. 15:20:50

18 A I -- I don't recall if it was him 15:20:53
19 directly, but I believe it was with just his 15:20:57
20 attorneys. I don't recall if he was present, as 15:21:01
21 well. 15:21:03

22 Q Okay. But it goes on to say: And they 15:21:04
23 have alleged the diversity vendor program with the 15:21:07
24 insured may not have included pricing 15:21:10
25 considerations and that same only needed to 15:21:13

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1 provide value. 15:21:16
2 What did you mean by that note? 15:21:19
3 A Hold on a second. Which date of the note 15:21:22
4 are you -- 15:21:44
5 Q August 5th, 2021. 15:21:45
6 A Still the August. 15:21:47
7 Q After you mentioned that the insured 15:21:48
8 submitted a proof of loss for 32 million and the 15:21:50
9 insured has submitted 130,000 documents for 15:21:53
10 review, you said: We have meet with the principal 15:21:56
11 and his attorney June 2021, and they have alleged 15:21:59
12 the diversity vendor program with the insured may 15:22:04
13 not have included pricing considerations and that 15:22:07
14 same only needed to provide value. 15:22:10
15 Do you see that? 15:22:12
16 A Yes. 15:22:15
17 Q What did you mean by that? What were they 15:22:16
18 telling you? 15:22:20
19 A That was coming from an update provided by 15:22:44
20 our coverage counsel at the time. 15:22:50
21 Q And that was Clark Hill, Mr. Keeley and 15:22:52
22 Ms. Connell; is that right? 15:22:55
23 A Yes. Well, as far as relaying what 15:22:59
24 occurred during the meetings or was presented 15:23:04
25 during the meetings. 15:23:07

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1	Q Okay. Well, what did you understand that	15:23:09
2	to mean when you write that they, referring to Jag	15:23:11
3	and his representatives, have alleged the	15:23:16
4	diversity vendor program with the insured may not	15:23:19
5	have included pricing considerations and that same	15:23:22
6	only needed to provide value?	15:23:25
7	A Well, at the time, we had limited	15:23:33
8	information on that, so I was just updating the	15:23:34
9	file note based on what was presented at that	15:23:40
10	time.	15:23:43
11	Q But what kind of value did they say that	15:23:48
12	diverse suppliers needed to provide under the	15:23:50
13	diversity vendor program at International Paper?	15:23:54
14	A I don't recall how value was defined.	15:23:57
15	Q You go on to say in your note: That same	15:24:04
16	indicated they could provide information to	15:24:09
17	support same.	15:24:11
18	What did you mean by that?	15:24:13
19	A It's referring back to value, but what	15:24:15
20	that would have entailed, we didn't have that	15:24:24
21	information.	15:24:27
22	Q Well, what information was being offered	15:24:29
23	by Jag or his representatives to support what they	15:24:34
24	were saying about having to provide value?	15:24:39
25	A Well, the type or -- the type of value --	15:24:45

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1 Q What -- 15:24:51
2 A -- wasn't defined. 15:24:51
3 Q Well, what information were they promising 15:24:53
4 to provide? 15:24:56
5 A I don't recall the specifics of what 15:24:59
6 information they indicated they may have had. 15:25:01
7 Q Well, what information did they provide to 15:25:07
8 you? 15:25:10
9 A I don't recall what was provided with 15:25:13
10 respect to that item. 15:25:17
11 Q Well, when you wrote this, what did you 15:25:24
12 understand that they were promising to provide to 15:25:26
13 support their position that Jag was not a thief? 15:25:29
14 A Well, as -- as stated in my note, 15:25:37
15 something to demonstrate value. But the type 15:25:40
16 of -- of alleged value, purported value, I didn't 15:25:44
17 have that information at the time I wrote the 15:25:49
18 note. 15:25:53
19 Q Did they ever provide you that information 15:25:53
20 to support the value that they were allegedly 15:25:55
21 providing through DGS and Mid-South? 15:26:00
22 A I don't recall specifically what, if 15:26:06
23 anything, they provided. 15:26:12
24 Q Let's go back to Exhibit 22, your answers 15:26:13
25 to the second set of interrogatories. And go to 15:26:18

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1 page 5, if you would. 15:26:29
2 Do you see at the bottom of page 5 again 15:26:39
3 the reference to the meeting that took place, the 15:26:40
4 secret meeting on July 13th, 2021, between 15:26:42
5 Beazley's counsel and Jag and Shiv's counsel that 15:26:46
6 International Paper was not advised about? 15:26:51
7 A I see the reference to the meeting. 15:26:55
8 Q And then it says at the top of page 6: At 15:27:03
9 the meeting, the parties discussed... 15:27:05
10 Do you see that on the second and third 15:27:07
11 line? 15:27:10
12 A Yes. 15:27:12
13 Q It says: Mr. Jagannath's employment at 15:27:13
14 IP, including his background at the company, 15:27:17
15 generally, and more specifically, relating to the 15:27:20
16 allegations that are the subject of the claim, 15:27:23
17 including IP's diversity supplier program, the 15:27:26
18 relationship between Mr. Jagannath and Mr. Kumar, 15:27:31
19 and Diversified Global Sourcing, Inc., and 15:27:34
20 Mid-South Diversity Group retention as diverse 15:27:38
21 suppliers, IP's agreements with Mr. Kumar, DGS and 15:27:41
22 Mid-South, Mr. Jagannath's draft counterclaim in 15:27:45
23 International Paper versus Sitaraman Jagannath, et 15:27:51
24 al. 15:27:55
25 Do you see that? 15:27:55

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1 A I do. 15:27:57

2 Q Is that where Beazley got a copy of the 15:27:58

3 draft counterclaim that Jag's lawyers were 15:28:01

4 proposing to file in the civil lawsuit? 15:28:08

5 A I don't recall if it was provided at the 15:28:20

6 meeting, but it was provided -- 15:28:22

7 Q And, again -- 15:28:27

8 A -- draft counterclaim. 15:28:29

9 Q Right. Draft counterclaim. 15:28:30

10 A And then it says: And the role of other 15:28:32

11 diverse suppliers at IP, like KBG Technologies and 15:28:37

12 Chou Chemicals, which counsel for Mr. Jagannath 15:28:44

13 and Mr. Kumar claim to operate in a similar manner 15:28:47

14 as DGS and Mid-South. 15:28:47

15 Q Do you see that? 15:28:50

16 A I do. 15:28:50

17 Q And then finally, it says: Beazley did 15:28:51

18 not reach any conclusion regarding the accuracy 15:28:53

19 and reliability of the information obtained during 15:28:56

20 the aforementioned emails, calls and meeting. 15:28:58

21 Q Do you see that statement? 15:28:59

22 A I do. 15:29:03

23 Q And that meeting took place, as is 15:29:03

24 reflected in this interrogatory answer, on 15:29:08

25 July 13th, 2021, which is some two and a half 15:29:12

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1	years ago.	15:29:18
2	So, here we are now in December of 2023.	15:29:19
3	Has Beazley now reached conclusions regarding the	15:29:23
4	accuracy and reliability of the information that	15:29:27
5	was relayed to them by Mr. Jag and Mr. Shiv's	15:29:30
6	lawyers at that meeting?	15:29:35
7	A With respect to what in particular?	15:29:48
8	Q The information that's listed here about	15:29:52
9	IP's agreements, about the relationships between	15:29:59
10	Mr. Jagannath and Mr. Kumar and DGS and Mid-South	15:30:03
11	about the role of other diverse suppliers.	15:30:07
12	Have you now reached any conclusions about	15:30:11
13	whether Jag and Shiv were giving you accurate	15:30:14
14	information through their lawyers when you had the	15:30:19
15	secret meeting in July of 2021?	15:30:21
16	A Beazley hasn't made a final determination	15:30:26
17	on that particular item.	15:30:31
18	Q If you go back a page, at the bottom of	15:30:35
19	page 5, I guess, there's a middle paragraph, the	15:30:41
20	last sentence of the middle paragraph on page 5.	15:30:47
21	And, again, we're looking at Exhibit 22, these	15:30:50
22	interrogatory answers of Beazley. It says: On	15:30:52
23	September 29th, 2021 -- and this is after the	15:30:58
24	meeting -- Ms. Connell and Mr. Mannis discussed	15:31:01
25	the insured's investigation of IP's claim and	15:31:05

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1 settlement discussions relating to IP's claims 15:31:09
2 against Mr. Jagannath and Mr. Kumar. 15:31:12
3 Do you see that? 15:31:15
4 A I do. 15:31:18
5 Q What settlement discussions did Beazley's 15:31:19
6 lawyers have with Jag's lawyer, Mr. Mannis, in 15:31:23
7 connection with IP's claim? 15:31:30
8 A I don't recall the -- any details of a 15:31:36
9 settlement discussion. 15:31:49
10 Q Well, do you recall generally what were 15:31:52
11 they talking about when it references settlement 15:31:55
12 discussions being discussed? 15:31:57
13 A I don't recall with any specificity that 15:32:07
14 there were -- with any -- that there were any 15:32:10
15 settlement discussions. 15:32:14
16 Q Okay. Can you go back to your claim 15:32:18
17 notes, Exhibit 18, on page 14, tell me when you're 15:32:20
18 there. 15:32:38
19 A I'm on page 14. 15:32:38
20 Q The bottom of page 14, there's a note 15:32:40
21 dated October 21, 2021, that you entered into the 15:32:44
22 claim notes. Do you see that? 15:32:47
23 A Yes. 15:32:51
24 Q And if you continue to the next page after 15:32:57
25 all the blacked-out portion of that note, there's 15:33:03

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1 an unblacked-out portion of your note on 15:33:07
2 October 21. 15:33:10

3 Do you see it? It says: We have also 15:33:11
4 obtained a copy... 15:33:15

5 Do you see that? 15:33:20

6 A On page 14? 15:33:21

7 Q 15. We're now looking at page 15. It's a 15:33:30
8 continuation of your October -- 15:33:35

9 A Yes, I see it. 15:33:36

10 Q It's a continuation of your note dated 15:33:37
11 October 21, 2021. It says: We have also obtained 15:33:40
12 a copy of the countercomplaint filed by Jag, the 15:33:47
13 reported dishonest employee, against IP. 15:33:51

14 Okay. So, as of that date, October of 15:33:53
15 '21, you had this draft counterclaim in your 15:33:57
16 hands, right? 15:34:01

17 A Yes. 15:34:06

18 Q And you didn't show it to International 15:34:07
19 Paper when you got it, right? 15:34:08

20 A We did not share the draft with them. 15:34:12

21 Q Did you agree -- 15:34:14

22 (Indiscernible crosstalk.) 15:34:16

23 Q Did you agree with Jag's lawyers that, in 15:34:17
24 order to get it, you would not show it to 15:34:20
25 International Paper? 15:34:22

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1 Did you have that agreement with them? 15:34:23

2 A I don't recall if we had an agreement to 15:34:30

3 share a draft complaint with the insured. 15:34:32

4 Q But is that why you didn't share it with 15:34:37

5 IP, your policyholder, because you promised Jag 15:34:39

6 and Shiv that if they showed it to you, you 15:34:43

7 wouldn't show it to IP; was that the deal? 15:34:46

8 A I don't -- I don't recall if that was 15:34:50

9 the -- the rationale. 15:34:54

10 Q Your note says: It alleges -- "it" 15:34:59

11 referring to the countercomplaint -- the 15:35:01

12 following, among other item: IP's decision to use 15:35:04

13 DGS as an IP supplier and/or diversity supplier 15:35:07

14 predicated Mr. Jagannath having a position at IP in 15:35:12

15 which he had any input or influence over IP 15:35:16

16 utilizing any diversity supplier, including DGS. 15:35:19

17 Do you believe that to be true? 15:35:23

18 A I don't recall the exact dates of his 15:35:27

19 employment capacities with IP and when either DGS 15:35:34

20 or Mid-South were part of their diversity program. 15:35:41

21 Q Okay. It goes on to say: Thus, as of the 15:35:47

22 time IP decided to utilize DGS after fully vetting 15:35:51

23 and certifying that DGS was capable of meeting 15:35:56

24 IP's diversity supplier company needs, 15:36:00

25 Mr. Jagannath was not in a position to have played 15:36:01

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1 any role and, therefore, could not have played any 15:36:03
2 role in the decision-making process. 15:36:06

3 That's going on to page 16. 15:36:15

4 Do you believe that information now after 15:36:17
5 you have seen all of the discovery in this case, 15:36:21
6 that Jag had no role in the decision-making 15:36:24
7 process to do business with DGS? 15:36:28

8 A He was not the sole decision-maker. 15:36:38

9 Q Right. But do you -- do you believe that 15:36:43
10 he had no role in that decision making? That's 15:36:51
11 what he's saying here in your note. Mr. Jagannath 15:36:57
12 was not in the position to have played any role 15:37:00
13 and, therefore, could not have played any role in 15:37:03
14 that decision-making process. 15:37:06

15 Do you believe that based on your 15:37:07
16 investigation? 15:37:10

17 A Well, that statement is referring back to 15:37:32
18 the previous sentences in that note. 15:37:37

19 Q Which previous sentence? 15:37:42

20 A The sentences beginning with "thus, as 15:37:51
21 of".... 15:37:58

22 Q Thus, as of the time IP decided to utilize 15:37:58
23 DGS after fully vetting and certifying that DGS 15:38:04
24 was capable of meeting IP's diversity supplier
25 company's needs, Mr. Jagannath was not in a 15:38:10

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1 position to have played any role. 15:38:12

2 Is that what you're talking about? 15:38:14

3 A Yes. 15:38:16

4 Q Do you believe that DGS was fully vetted 15:38:17
5 and certified, that DGS was capable of meeting 15:38:22
6 IP's diversity supplier company needs? 15:38:26

7 A We understand that they were part of the 15:38:31
8 insured's diversity program. 15:38:34

9 Q Right. You saw evidence that they were 15:38:36
10 certified as a diversity supplier, right? 15:38:39

11 A That they were part of the -- that they 15:38:44
12 were part of the insured's diversity supplier 15:38:49
13 program, yes. 15:38:52

14 Q Right. But you heard testimony that, in 15:38:53
15 terms of determining whether they were qualified 15:38:56
16 to meet the needs of any particular contract, that 15:38:58
17 was up to the buyer to decide that. That was not 15:39:01
18 up to the diversity supplier program to decide 15:39:04
19 that. 15:39:07

20 Do you recall that testimony in the record 15:39:08
21 of this case? 15:39:10

22 A I don't recall that specifically. 15:39:14

23 Q Well, if that's true, then Jag is not 15:39:18
24 telling the truth that he had no role in 15:39:21
25 determining whether they were capable of 15:39:24

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1 satisfying contractual requirements; isn't that 15:39:28
2 right? 15:39:54

3 A Can you repeat your question, please? 15:39:54

4 Q If the only thing that IP diversity 15:39:57
5 supplier program certified was that DGS was a 15:40:00
6 diverse supplier, but not that it had the 15:40:06
7 capability of meeting any particular needs, and 15:40:08
8 that that was the decision of the buyer for IP, 15:40:12
9 which in this case was Jag, then his statement 15:40:17
10 that he had no role in determining whether DGS was 15:40:21
11 capable of meeting company needs is false, isn't 15:40:25
12 it? 15:40:28

13 A I can't really comment on the accuracy of 15:40:46
14 his previous representations with respect to Jag. 15:40:50

15 Q Okay. Go back to Exhibit 7, which were 15:40:56
16 your interrogatory answers to the first set of 15:41:04
17 interrogatories. Then page 10 is where I'm at on 15:41:07
18 Exhibit 7. 15:41:23

19 Do you have that? 15:41:24

20 A Yes, I do. 15:41:26

21 Q Well, let me go back. I'm sorry, go back 15:41:27
22 to page 9. Remember when we talked about 15:41:43
23 significant benefits allegedly provided by DGS and 15:41:46
24 Mid-South for doing business with IP? 15:41:50

25 Do you recall that discussion on page 9, 15:42:02

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1	where it said, quote: IP received significant	15:42:05
2	benefits from doing business with diversity or	15:42:08
3	minority-owned businesses, including DGS and	15:42:12
4	Mid-South, regardless of the goods or services	15:42:16
5	provided by those companies.	15:42:18
6	Do you see that statement by Beazley in	15:42:22
7	your interrogatory answer?	15:42:23
8	A Yes.	15:42:24
9	Q So, if this arrangement was so beneficial	15:42:25
10	for International Paper to do business with DGS	15:42:31
11	and Mid-South, why did International Paper fire	15:42:35
12	Jag when it learned about his doing business with	15:42:38
13	his brother's company at DGS and Mid-South?	15:42:42
14	A My understanding was due to his failure to	15:43:02
15	disclose the relationship.	15:43:12
16	Q Okay. Then, if it was so beneficial for	15:43:19
17	IP to do business with DGS and Mid-South, why did	15:43:23
18	IP cut off immediately doing business with DGS and	15:43:27
19	Mid-South once it found out about this arrangement	15:43:33
20	between Jag and DGS and Mid-South?	15:43:36
21	Even if they fired Jag, why didn't they	15:43:42
22	keep doing business with DGS and Mid-South if it	15:43:46
23	was so beneficial to International Paper?	15:43:50
24	MR. MURPHY: Objection as to form.	15:43:52
25	A I can't speculate on their rationale.	15:43:54

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1 Q Why did they sue DGS and Mid-South? Why 15:43:57
2 did International Paper sue DGS and Mid-South when 15:44:01
3 it found out about this arrangement? 15:44:05
4 Does that sound like something 15:44:07
5 International Paper would do if it thought that 15:44:10
6 the arrangement was so beneficial to itself? 15:44:11
7 MR. MURPHY: Objection as to form. 15:44:15
8 You can answer. 15:44:16
9 A I can't speak to the rationale of why the 15:44:17
10 insured chose to do that. 15:44:22
11 Q Well, does that sound like a company 15:44:26
12 that's happy with all of the benefits it's getting 15:44:36
13 with doing business with DGS and Mid-South, that 15:44:38
14 once it finds out about this arrangement between 15:44:41
15 Jag and his brother's companies, that they fire 15:44:45
16 Jag, that they cut off business with DGS and 15:44:47
17 Mid-South and that they file suit against them? 15:44:50
18 Does that sound like a company that thinks 15:44:52
19 it's getting a beneficial relationship by doing 15:44:54
20 business with Mid-South and DGS? 15:44:56
21 MR. MURPHY: Objection as to form, 15:44:59
22 compound, asked and answered. 15:45:00
23 A Again, I can't speak to International 15:45:03
24 Paper's rationale. 15:45:08
25 Q I know you can't speak to their rationale, 15:45:13

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1 but doesn't it sound to you, given your degrees in 15:45:16
2 psychology and sociology and criminology, that a 15:45:20
3 company that was having such a beneficial 15:45:24
4 relationship with DGS and Mid-South, that once 15:45:26
5 they found out about the arrangement between Jag 15:45:30
6 and his brother's companies, that they would file 15:45:33
7 suit against them, cut off all contracts with them 15:45:38
8 and alert the criminal authorities and file a 15:45:43
9 criminal complaint? 15:45:46

10 Does that sound like a company that 15:45:47
11 thought it was having a very mutually beneficial 15:45:49
12 relationship with DGS and Mid-South? 15:45:51

13 MR. MURPHY: Objection as to form, calls 15:45:55
14 for speculation. 15:45:56

15 A I can't speak to the insured's corporate 15:46:01
16 mind-set with regard to that. 15:46:06

17 Q Well, what do you interpret from those 15:46:09
18 actions in your investigation of the claim to 15:46:11
19 determine whether, in fact, this was really theft 15:46:14
20 or was ordinary course of business as Jag alleged? 15:46:18

21 MR. MURPHY: Objection as to form. 15:46:24

22 A Well, I know the criminal matter was no 15:46:31
23 longer being pursued and the civil case has been 15:46:33
24 dismissed. 15:46:37

25 Q Right. And that's as a result of 15:46:44

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1 settlement and Jag and Shiv's agreement to pay \$15 15:46:46
2 million back to International Paper. 15:46:50

3 But I'm talking about the initial actions 15:46:54
4 that IP took back in 2019 when it learned that Jag 15:46:57
5 was doing business with his brother's company, 15:47:03
6 DGS, and his brother's other company, Mid-South. 15:47:06

7 Does the actions of firing Jag, 15:47:11
8 terminating those contracts with DGS and 15:47:14
9 Mid-South, filing a criminal complaint, filing a 15:47:18
10 civil action, do those sound like the actions of a 15:47:21
11 company that thought it had a good and beneficial 15:47:25
12 relationship from doing business with DGS and 15:47:29
13 Mid-South? 15:47:35

14 MR. MURPHY: Same objection, asked and 15:47:36
15 answered. 15:47:39

16 A I can't speculate on that item. 15:47:39

17 Q Well, do you take those facts into 15:47:42
18 consideration when you're determining whether this 15:47:44
19 was theft on the one hand, as International Paper 15:47:46
20 contends, or whether it was just the ordinary 15:47:50
21 course of business, as Jag contends? 15:47:53

22 Do those actions inform you in your 15:47:57
23 investigation as to who's telling the truth and 15:47:59
24 who's lying? 15:48:02

25 MR. MURPHY: Observation as to form. 15:48:05

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1 A Again, they are both -- one has been 15:48:10
2 dismissed and one is not being pursued with regard 15:48:13
3 to the criminal investigation and the civil -- and 15:48:16
4 the civil action that was filed. 15:48:21

5 Q Right. And do you know why they are not 15:48:25
6 being pursued? 15:48:28

7 A Because the insured provided a full 15:48:30
8 release in the settlement agreement. 15:48:36

9 Q Right. And that release was in exchange 15:48:40
10 for payment of \$15 million from Jag and Shiv back 15:48:42
11 to the company; isn't that right? 15:48:47

12 A That was the approximate number from the 15:48:50
13 settlement agreement, yes. 15:48:54

14 Q Well, that's the exact number, isn't it, 15:48:55
15 from the settlement agreement? 15:48:57

16 A Well, can you just refer to the document? 15:49:02
17 I don't want to misspeak on the number, but... 15:49:04

18 Q Well, we've looked at it already. I don't 15:49:09
19 want to spend time digging it up again. 15:49:11

20 But, again, are you trying to make a 15:49:14
21 determination -- you said that your investigation 15:49:18
22 is continuing. 15:49:19

23 Is Beazley trying to make a determination 15:49:20
24 whether this is employee theft, on the one hand, 15:49:23
25 versus order course of business, as Jag contends? 15:49:25

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1 Is that what you're investigating right 15:49:29
2 now and you haven't reached a conclusion yet? 15:49:31
3 MR. MURPHY: Objection as to form. 15:49:33
4 A Our investigation is we're determining 15:49:38
5 whether there was an employee theft that occurred 15:49:41
6 with respect to the insurance commercial crime 15:49:45
7 policy. 15:49:47
8 Q Right. And Jag told you in the secret 15:49:50
9 meetings that he didn't do that, that he was just 15:49:52
10 engaged in the ordinary course of business with 15:49:55
11 DGS and Mid-South; isn't that he told you? 15:49:58
12 MR. MURPHY: Objection to form and your 15:50:00
13 continued reference to, quote, "secret," unquote, 15:50:02
14 meetings. 15:50:05
15 A Can you repeat your question, please? 15:50:14
16 Q When you had the undisclosed meeting with 15:50:20
17 Jag and Shiv's lawyers, back in July of 2021, 15:50:23
18 wasn't Jag and Shiv trying to tell your lawyers 15:50:30
19 that this was not theft from International Paper, 15:50:33
20 but it was ordinary course of business 15:50:38
21 transactions between IP on the one hand and DGS 15:50:41
22 and Mid-South on the other? 15:50:47
23 A That's what was alleged. 15:50:56
24 Q And my question is, when you're doing your 15:51:01
25 investigation and you're looking at all of the 15:51:05

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1 facts to determine is this employee theft or is 15:51:06
2 this ordinary course of business, do you think 15:51:10
3 that International Paper would have fired Jag, 15:51:14
4 filed a civil and criminal complaint against Jag 15:51:18
5 and Shiv and Mid-South and DGS and terminated all 15:51:20
6 contracts with DGS and Mid-South immediately if 15:51:25
7 this were just ordinary course of business for IP 15:51:28
8 that had been approved by Jag and his superiors? 15:51:32
9 MR. MURPHY: Objection as to form, vague, 15:51:36
10 compound. 15:51:38
11 You can answer, if you can. 15:51:39
12 A I can't speculate. I can't -- cannot 15:51:43
13 speculate on the insured's rationale for taking 15:51:47
14 the actions that you just laid out. 15:51:52
15 Q I'm not asking you to speculate. I'm 15:51:57
16 asking you, how do you process that information as 15:52:00
17 a claims handler who has to make a decision on who 15:52:03
18 to believe? 15:52:07
19 Do you believe your policyholder who says 15:52:09
20 they are victim of theft, or do you believe the 15:52:11
21 alleged thief? 15:52:14
22 You have to make some credibility 15:52:15
23 determinations, don't you, as to who's telling the 15:52:17
24 truth and who's lying? Don't you? Isn't that 15:52:20
25 part of what you do? 15:52:22

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1 MR. MURPHY: Objection as to form. Which 15:52:23
2 question do you want her to answer? 15:52:26

3 Q The question is, don't you make a 15:52:30
4 credibility determination as between your policy 15:52:33
5 on the one hand and the alleged thief, in this 15:52:35
6 case Jag on the other, in determining whether this 15:52:38
7 is employee theft or whether it's just ordinary 15:52:40
8 course of business, as Jag alleges? 15:52:43

9 A Well, we would conduct our -- a claim 15:52:51
10 investigation for determining an employee- 15:52:55
11 dishonesty matter under the policy to see if one 15:52:58
12 is actually -- if -- if it has actually occurred. 15:53:04

13 Q Can you turn to page 11 of Exhibit 7? 15:53:09
14 This is, again, further answer to 15:53:22
15 interrogatory number 2 in your answers to 15:53:23
16 interrogatories. 15:53:27

17 A You said page 11? 15:53:29
18 Q Bottom paragraph. 15:53:30
19 A You said page 11? 15:53:31
20 Q Yes, page 11. Yes. Do you have it? 15:53:32
21 A Okay. 15:53:35
22 Yes, I do. 15:53:39
23 Q Down at the bottom, at the end of that 15:53:40
24 page, the last couple sentences say: All or most 15:53:42
25 of the contracts, invoices and other transaction 15:53:47

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1 data relating to Tier 1 suppliers do not reflect 15:53:49
2 any value-added services in exchange for this 15:53:54
3 markup. Where a Tier 1 supplier did provide some 15:53:57
4 form of additional service, e.g. transport, 15:54:00
5 processing, packaging, inventory management, bulk 15:54:03
6 purchases or distribution, the value of those 15:54:10
7 services did not approach the amount of the price 15:54:12
8 markup it charged to IP. 15:54:13
9 Do you see that? 15:54:16
10 A I -- I do. 15:54:17
11 Q And is this statement true with regard to 15:54:19
12 DGS, that the value of its services did not 15:54:21
13 approach the amount of price markup it was 15:54:27
14 charging to IP? 15:54:30
15 A We haven't made a determination on that. 15:55:06
16 Q Well, this doesn't qualify your statement. 15:55:10
17 I mean, the paragraph starts by saying: The 15:55:13
18 Specialty Chemicals Group did business with 15:55:16
19 diverse or minority-owned businesses in two ways, 15:55:18
20 referred to as Tier 1 and Tier 2 arrangements. 15:55:22
21 And then you go on to describe them. 15:55:25
22 A Correct.
23 Q And then you say at the end, you say that: 15:55:28
24 All or most of the contracts, invoices and other 15:55:31
25 transaction data relating to Tier 1 suppliers did 15:55:34

1 not reflect any value-added services in exchange 15:55:38
2 for this markup. Where a Tier 1 supplier did 15:55:41
3 provide some form of additional service, 15:55:45
4 transport, process improvements, packaging, 15:55:48
5 inventory management, bulk purchases or 15:55:50
6 distribution, the value of those services did not 15:55:54
7 approach the amount of price markup it charged to 15:55:56
8 IP. 15:55:59

9 And I'm asking, when DGS was serving as a 15:55:59
10 Tier 1 supplier for IP, for Specialty Chemicals, 15:56:04
11 is your statement, as you made it in this answer 15:56:08
12 that you verified a couple of weeks ago, correct? 15:56:11

13 A This -- this statement is regard -- with 15:56:22
14 regards to all of the diverse and minority-owned 15:56:24
15 businesses within Specialty Chemicals. 15:56:31

16 Q And that includes DGS, right? 15:56:33

17 A They were one of the insured's diversity 15:56:39
18 suppliers. 15:56:43

19 Q Right. And this statement that the amount 15:56:46
20 of service they performed did not approach the 15:56:49
21 amount of the price markup it charged to IP, that 15:56:52
22 applies also to Mid-South, correct, which was also 15:56:56
23 a diverse supplier of IP, correct? 15:56:59

24 A Yes, they were a diverse supplier of IP. 15:57:04

25 Q Well, not only were they -- 15:57:08

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1	(Indiscernible crosstalk.)	15:57:09
2	Q But I'm asking about the whole statement	15:57:09
3	that you made about Tier 1 suppliers.	15:57:11
4	When Mid-South was acting as a Tier 1	15:57:14
5	supplier, is it correct that Beazley contends that	15:57:17
6	even when they did provide some form of additional	15:57:23
7	service, the value of those services did not	15:57:26
8	approach the amount of the price markup it charged	15:57:30
9	to IP?	15:57:30
10	A And that statement is -- is what we're	15:57:35
11	saying with regards to all of the diverse	15:57:38
12	minority-owned businesses.	15:57:42
13	Q I understand. But I'm asking about a	15:57:46
14	specific diverse supplier, Mid-South.	15:57:48
15	You're saying definitively, without	15:57:50
16	qualification, that when Mid-South acted as a	15:57:53
17	Tier 1 supplier and did perform some form of	15:57:59
18	additional service, the value of Mid-South's	15:58:01
19	services to IP did not approach the amount of the	15:58:04
20	price markup it charged to IP.	15:58:06
21	Isn't that what you're saying right here?	15:58:08
22	A That statement is with regard to all of	15:58:12
23	the diverse and minority-owned suppliers within	15:58:16
24	Specialty Chemicals.	15:58:20
25	Q And that included Mid-South, right?	15:58:20

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1	A Among others.	15:58:23
2	Q Yes.	15:58:25
3	And it included DGS, as well, correct?	15:58:28
4	A And others.	15:58:34
5	Q Okay. So, DGS and Mid-South and others.	15:58:36
6	Which others do you also contend that that	15:58:42
7	applies to?	15:58:45
8	A The other minority and diverse suppliers	15:58:46
9	within Specialty Chemicals. That's what that	15:58:51
10	statement is -- is referencing.	15:58:54
11	Q Okay. And Jag was the purchaser for	15:58:56
12	Specialty Chemicals at IP, correct?	15:59:01
13	He was the one in charge of negotiating	15:59:03
14	contracts with diverse suppliers and majority	15:59:06
15	suppliers, correct?	15:59:10
16	A That was part of his job function.	15:59:12
17	Q Okay. Now, when you talk about where a	15:59:18
18	Tier 1 supplier did provide some form of	15:59:21
19	additional service, you give examples.	15:59:23
20	Transport. Are you aware of any	15:59:26
21	transportation services that DGS ever provided to	15:59:31
22	IP for the markup it was charging as a Tier 1	15:59:33
23	supplier?	15:59:38
24	A I don't recall specifically.	15:59:47
25	Q You said process improvements. Are you	15:59:48

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1 aware of any process improvements that DGS ever 15:59:51
2 provided to IP for the markup it was charging? 15:59:54
3 A I don't recall specifically. 16:00:06
4 Q The next one is packaging. Do you recall 16:00:07
5 any packaging services DGS ever provided to IP for 16:00:10
6 the markup it was charging? 16:00:14
7 A I don't recall specifically. 16:00:26
8 Q The next one is inventory management. Are 16:00:27
9 you aware of any inventory management services 16:00:29
10 that DGS ever provided to IP for the markup it was 16:00:31
11 charging? 16:00:36
12 A I don't recall specifically. 16:00:41
13 Q The next one is bulk purchases. Do you 16:00:43
14 recall any bulk purchasing services that DGS ever 16:00:47
15 provided to IP for the markup it was charging? 16:00:52
16 A I don't recall specifically. 16:00:58
17 Q The next one is distribution. Do you 16:01:00
18 recall any distribution services that DGS ever 16:01:02
19 provided IP for the markup it was charging? 16:01:06
20 A Again, I don't recall the specifics on 16:01:17
21 that item. 16:01:20
22 Q Same questions for Mid-South. Do you 16:01:20
23 recall any transport, process improvement, 16:01:23
24 packaging, inventory management, bulk purchases or
25 distribution services that Mid-South ever provided 16:01:25

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1 to IP for the markup it was charging? 16:01:28
2 A I don't recall specifically. 16:01:34
3 Q Are you aware of any plant or equipment 16:01:37
4 that DGS owned that could provide any of these 16:01:42
5 logistical services that you just described? 16:01:46
6 MR. MURPHY: Objection as to form. 16:01:50
7 A I do not recall specifically. 16:01:56
8 Q Same question for Mid-South, are you aware 16:01:58
9 of any plant or equipment that Mid-South owned or 16:02:01
10 operated that could provide any of these types of 16:02:04
11 services that you've just described for Tier 1 16:02:07
12 suppliers? 16:02:10
13 MR. MURPHY: Same objection. 16:02:11
14 A I don't recall specifically. 16:02:14
15 MR. MURPHY: Can I just interrupt, 16:02:17
16 Mr. Sylvester, just for a moment, just a question 16:02:21
17 of timing? 16:02:21
18 We're a little after 4:00. You know, we 16:02:22
19 can go a little bit longer, but I'm trying to get 16:02:29
20 a sense, if you would, as to how long we are going 16:02:31
21 to go to get this concluded. 16:02:35
22 MR. SYLVESTER: Yeah, I mean, I have a lot 16:02:37
23 more questions of the witness. So, I mean, going 16:02:38
24 another 15, 20 or half an hour is not going to 16:02:40
25 conclude the deposition. 16:02:43

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1	You know, I'm willing to go, obviously, as	16:02:44
2	long as the witness can go today, recognizing	16:02:48
3	there may be childcare or other needs that have to	16:02:51
4	be accommodated. But my sense is that we're	16:02:54
5	probably going to have to resume at some other	16:02:58
6	time, and if that's the case and you want to	16:03:02
7	adjourn now, we can do that, so long as we have an	16:03:04
8	agreement to resume at a mutually convenient time	16:03:08
9	subsequently.	16:03:10
10	MR. MURPHY: Okay. I think that's	16:03:13
11	probably what we're going to have to do, is agree	16:03:16
12	to resume.	16:03:19
13	Let's go off the record, and if it's okay,	16:03:19
14	what I would like to do is just go off video and	16:03:27
15	audio and just have a confidential discussion with	16:03:31
16	my client for a moment.	16:03:33
17	MR. SYLVESTER: Sure, sure, to talk about	16:03:35
18	availability in the future, yes.	16:03:37
19	THE VIDEOGRAPHER: We are going off the	16:03:40
20	record. The time is 4:03 p.m.	16:03:41
21	(Off the record.)	16:03:43
22	THE VIDEOGRAPHER: We are back on the	16:09:35
23	record. The time is 4:09 p.m.	16:09:36
24	MR. SYLVESTER: Okay. So, we're back on	16:09:41
25	the record. This is the end of Day 1 of	16:09:44

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1 Ms. Ellis' deposition. I'm going to confer with 16:09:46
2 her counsel and we will resume at a mutually 16:09:51
3 agreed upon date in the near future. 16:09:54

4 Thank you, Ms. Ellis, for her time and 16:09:56
5 attention today, and we will see her at some 16:09:58
6 subsequent date. 16:10:01

7 MR. MURPHY: Agreed. Thank you. 16:10:02

8 THE VIDEOGRAPHER: This marks the end of 16:10:04
9 Day 1 of the deposition of Pia Ellis. We are 16:10:06
10 going off the record at 4:10 p.m. 16:10:09

11 (Deposition concluded at 4:10 p.m. EST

12 Signature of the witness was not
13 requested.)

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1 CERTIFICATE OF SHORTHAND REPORTER NOTARY PUBLIC

2 I, Karen Klerekoper, the officer before
3 whom the foregoing proceedings were taken, do
4 hereby certify that the foregoing transcript is a
5 true and correct record of the proceedings; that
6 said proceedings were taken by me stenographically
7 and thereafter reduced to typewriting under my
8 supervision; that review was NOT requested; and
9 that I am neither counsel for, related to, nor
10 employed by any of the parties to this case and
11 have no interest, financial or otherwise, in its
12 outcome.

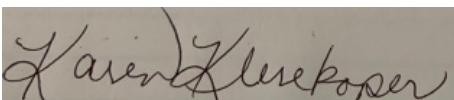
13 IN WITNESS WHEREOF, I have hereunto set my hand
14 and affixed my notarial seal this 22nd day of
15 December 2023.

16

17 MY COMMISSION EXPIRES:

18 OCTOBER 7, 2024

19

20 

21

22 NOTARY PUBLIC IN AND FOR THE STATE OF MICHIGAN

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A				
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